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COMPLETED

GARN-ST GERMAIN DEPOSITORY INSTITUTIONS ACT OF 1982

September 30 (legislative day, September 8), 1982.—Ordered to be printed

Mr. **Garn**, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 6267]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Garn-St Germain Depository Institutions Act of 1982".

TITLE I—DEPOSIT INSURANCE FLEXIBILITY

SHORT TITLE

Sec. 101. This title may be cited as the "Deposit Insurance Flexibility Act".

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Part A—Federal Deposit Insurance Corporation Amendments

ASSISTANCE TO INSURED BANKS

Sec. 111. Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended to read as follows:

"(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured bank—

"(A) if such action is taken to prevent the closing of such insured bank;

"(B) if, with respect to a closed insured bank, such action is taken to restore such closed insured bank to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured bank described in subparagraph (B) with an insured institution or the sale of assets of such insured bank and the assumption of such insured bank's liabilities by an insured institution, or the acquisition of the stock of such insured bank, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

"(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of such insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured bank or by reason of such company acquiring control of such insured bank; or

"(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

"(B) For the purpose of subparagraph (A), the insured bank must be an insured bank—

"(i) which is closed;

"(ii) which, in the judgment of the Board of Directors, is in danger of closing; or

"(iii) which, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured bank under section 13(f) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4)(A) No assistance shall be provided under this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating, including paying the insured accounts of, such insured bank, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured bank is essential to provide adequate banking services in its community.

"(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured bank. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(5)(A) During any period in which an insured bank has received assistance under this subsection and such assistance is still outstanding, such insured bank may defer the payment of any State or local tax which is determined on the basis of the deposits held by such insured bank or of the interest paid on such deposits.

"(B) When such insured bank no longer has any outstanding assistance, such insured bank shall pay all taxes which were deferred under subparagraph (A). Such payments shall be made in accordance with a payment plan established by the Corporation, after consultation with the applicable State and local taxing authorities.

"(6) Any assistance provided under this subsection may be in subordination to the rights of depositors and other creditors.

"(7) In its annual report to the Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

"(8) For purposes of this subsection, the term 'insured institution' means an insured bank as defined in section 3 of this Act or an insured institution as defined in section 401 of the National Housing Act.".

FEDERAL DEPOSIT INSURANCE CORPORATION; INSURED FEDERAL SAVINGS BANKS

SEC. 112. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

"(o)(1) Notwithstanding any other provision of this section, the Board, subject to the provisions of this subsection, may authorize, under the rules and regulations of the Board, the conversion of a State-chartered savings bank insured by the Federal Deposit Insurance Corporation into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, and regulation of such institution.

"(2)(A) The Federal Deposit Insurance Corporation shall insure the deposit accounts of any Federal savings bank chartered pursuant to this subsection, until such time as the accounts of such insti-

tution are insured by the Federal Savings and Loan Insurance Corporation.

"(B) The Board shall provide the Federal Deposit Insurance Corporation with notification of any application under this Act for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall provide said Corporation with notification of the Board's determination with respect to such application.

"(C) The Federal Deposit Insurance Corporation shall have the power to make special examinations of any Federal savings bank it insures and for which the Board of Directors of the Federal Deposit Insurance Corporation determines an examination is necessary to determine the condition of the bank for insurance purposes.

"(D) Except with the prior written approval of the Federal Deposit Insurance Corporation, no Federal savings bank insured by the Federal Deposit Insurance Corporation shall—

"(i) merge or consolidate with any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation;

"(ii) assume liability to pay any deposits made in, or similar liabilities of, any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation; or

"(iii) transfer assets to any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation in consideration of the assumption of liabilities for any portion of the deposits made in such bank.

"(E) In granting any approval required by paragraph (D) of this subsection, the Board of Directors of the Federal Deposit Insurance Corporation shall consider the financial and managerial resources and the future prospects of the existing and proposed institutions.

"(F) Notwithstanding section 402(j) of the National Housing Act, any provision of the constitution or laws of any State, or paragraph (1) of this subsection, if the Federal Deposit Insurance Corporation determines conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the closing of a savings bank it insures or to reopen a closed savings bank it insured, or if the Federal Deposit Insurance Corporation determines, with the concurrence of the Board, that severe financial conditions exist that threaten the stability of a savings bank insured by such Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Federal Deposit Insurance Corporation shall provide to the Board a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank, without further action by the Board, shall be converted or chartered by the Board, pursuant to the rules and regulations thereof, from the time the Federal Deposit Insurance Corporation issues such certificate.

"(G) A bank may be converted under subparagraph (F) only where the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (F).

"(H)(i) Before making a determination under subparagraph (F), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of subparagraph (F).

"(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (F) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(4) For purposes of the Bank Protection Act of 1968, the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Depository Institution Management Interlocks Act, the Depository Institutions Deregulation Act of 1980, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, and section 12(i) of the Securities Exchange Act of 1934, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall be regarded as an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

"(5) Notwithstanding any limitation contained in the National Housing Act, the Federal Savings and Loan Insurance Corporation, in its sole discretion, and on such terms and conditions as it shall determine, may provide the Federal Deposit Insurance Corporation with financial assistance or guarantees in connection with a transaction subject to paragraph (2)(D) or section 18(c) of the Federal Deposit Insurance Act.".

CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 113. (a) Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended—

(1) in paragraph (2) thereof, by striking out "and" at the end thereof;

(2) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.".

(b) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following:

"(t) The term 'insured Federal savings bank' means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933 and insured by the Corporation.".

(c) Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by inserting at the end thereof the following:

"(c) Every Federal savings bank which is chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933, and which is engaged in the business of receiving deposits other than trust funds, shall be an insured bank from the time it is authorized to commence business, until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation.".

(d) Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by inserting "(A)" after "(2)" and by inserting at the end thereof the following:

> *"(B) The Corporation shall have access to reports of examination made by, and reports of condition made to, the Federal Home Loan Bank Board or any Federal Home Loan Bank, respecting any insured Federal savings bank, and the Corporation shall have access to all revisions of reports of condition made to either such agency. Such agency shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition.".*

(e) The first sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "Each insured State nonmember bank (except a District bank) and each foreign bank having an insured branch (other than a Federal branch) shall make to the Corporation, each insured national bank, each foreign bank having an insured branch which is a Federal branch, and each insured District bank shall make to the Comptroller of the Currency, each insured State member bank shall make to the Federal Reserve bank of which it is a member, and each insured Federal savings bank shall make to the Federal Home Loan Bank Board, four reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Federal Home Loan Board.".

(f) Section 7(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(6)) is amended by inserting", the Federal Home Loan Bank Board," after "Comptroller of the Currency".

(g) Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

> *(1) in the second sentence thereof, by inserting after "district bank," the following: "to the Federal Home Loan Bank Board in the case of an insured Federal savings bank,"; and*
>
> *(2) in the third sentence thereof, by inserting after "national bank," the following: "or the Federal Home Loan Bank Board in the case of an insured Federal savings bank,".*

(h) Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended by inserting at the end thereof the following: "Whenever the insured status of an insured Federal savings bank shall be terminated by action of the Board of Directors, the Federal Home Loan Bank Board shall appoint a receiver for the bank, which shall be the Corporation.".

(i) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended in the second sentence thereof by inserting after

"or District bank," the following: "or any insured Federal savings bank,".

(j) Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by inserting at the end thereof the following: "Notwithstanding any other provision of law, whenever the Federal Home Loan Bank Board shall appoint a receiver, other than a conservator, of any insured Federal savings bank hereafter closed, it shall appoint the Corporation receiver for such closed insured Federal savings bank.".

(k) Section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)) is amended in the first sentence by inserting after "District bank," the following: "or closed insured Federal savings bank,".

(l) Section 12(a) of the Federal Deposit Insurance Act (12 U.S.C. 1822(a)) is amended by inserting after "foreign bank," the following: "insured Federal savings bank,".

(m) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) in subsection (e)—

(A) by inserting "(e)" before "No agreement"; and

(B) by striking out the first paragraph of such subsection.

(n) Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by inserting at the end thereof the following:

"(12) the provisions of this subsection shall not apply to any merger transaction involving an insured Federal savings bank unless the resulting institution will be an insured bank other than an insured Federal savings bank.".

(o) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following:

"(4) The provisions of this subsection shall not apply to an insured Federal savings bank.".

(p) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c) is amended—

(1) by inserting "(a)" after "Sec. 26.";

(2) in subsection (a), as so redesignated under paragraph (1), by adding at the end thereof the following: "The provisions of this subsection shall apply only to mergers, consolidations, or conversions consummated and effective prior to the effective date of the Depository Institutions Amendments of 1982 or mergers, consolidations, or conversions for which applications have been received at a regional Federal Home Loan Bank prior to such effective date."; and

(3) by adding at the end thereof the following:

"(b) No transaction involving a change of deposit insurance agencies from the Corporation to the Federal Savings and Loan Insurance Corporation shall be deemed a termination of insured status under section 8(a) of this Act.".

(q) Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended by adding at the end thereof the following: "This subsection shall not apply to an insured Federal savings bank.".

CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 114. (a) Section 2(d) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act and any reference in any other law to Federal savings and loan association shall be deemed to be also a reference to such Federal savings banks, unless the context indicates otherwise.".

(b) Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended—

(1) in paragraph (B), by inserting after "Federal Savings and Loan Insurance Corporation" the following: "or the Federal Deposit Insurance Corporation";

(2) in the second sentence of subparagraph (D), by inserting after "shall appoint" the following: ", except as hereafter povided,"; and

(3) by inserting at the end of subparagraph (D): "In the case of a Federal savings bank chartered pursuant to subsection (o) and insured by the Federal Deposit Insurance Corporation, the Board shall appoint only the Federal Deposit Insurance Corporation as receiver for the association and the Federal Deposit Insurance Corporation shall have the same powers as receiver as those powers granted by this paragraph to the Federal Savings and Loan Insurance Corporation as receiver of other associations.".

(c) Section 5(d)(11) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(11)) is amended by striking out "with other" and inserting in lieu thereof "with associations or with any".

CONFORMING AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 115. (a) Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended to read as follows:

"(a)(1) It shall be the duty of the Corporation to insure the accounts of all Federal savings and loan associations, and all Federal savings banks, except for Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(2) The Corporation may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks organized and operated according to the laws of the State, District, territory, or possession in which they are chartered or organized, and of savings banks chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933.".

(b) Subparagraphs (A) and (B) of section 408(a)(1) of the National Housing Act of (12 U.S.C. 1730a (a)(1)) are amended to read as follows:

"(A) 'insured institution' means a Federal savings and loan association, a Federal savings bank, a building and loan, savings and loan or homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(B) 'uninsured institution' means any association or bank referred to in subparagraph (A), the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(c) Section 407(m) of the National Housing Act (12 U.S.C. 1730(m)) is amended by adding at the end thereof the following:

"(4) The Federal Home Loan Bank Board, or its designated representative, shall have the same power with respect to a Federal association, or affiliate thereof, the deposits of which are insured by the Federal Deposit Insurance Corporation as it or the Corporation has under paragraphs (1) and (2) of this subsection with respect to insured institutions, or their affiliates.".

(d) Section 407(l)(6) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(e) Section 407(q)(13) of the National Housing Act (12 U.S.C. 1730(q)(13)) is amended by inserting "(A)" after "(13)" and by adding at the end thereof the following:

> *"(B) For the purposes of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".*

EXTRAORDINARY ACQUISITIONS

SEC. 116. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by inserting after subsection (e) the following:

"(f)(1) Nothing contained in paragraphs (2) or (3) shall be construed to limit the Corporation's powers in subsection (c) to assist a transaction under paragraphs (2) or (3).

"(2)(A) Whenever an insured bank with total assets of $500,000,000 or more (as determined from its most recent report of condition) is closed, the Corporation, as receiver, may, in its discretion and upon such terms and conditions as the Corporation may determine, arrange the sale of assets of the closed bank and the assumption of the liabilities of the closed bank, including the sale of such assets to and the assumption of such liabilities by an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

"(B) (i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the closed insured bank was chartered.

"(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided

by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State suspervisor, as soon as practicable, a written certification of its determination.

"(3)(A)(i) Whenever the Corporation has determined, in its discretion, that an insured bank organized in mutual form with total assets of $500,000,000 or more (as determined from its most recent report of condition) is in danger of closing, the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company.

"(ii) Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

"(B) The Corporation may make a determination under paragraph (A) only where the board of trustees of the insured bank and the appropriate Federal or State chartering authority have specified in writing that the bank is in danger of closing and have requested in writing that the Corporation assist a merger or a purchase.

"(C)(i) Before making a determination under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered.

"(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph.

"(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(4)(i) Notwithstanding section 3(d) of the Bank Holding Company Act of 1956 or any other provision of law, State or Federal, or the constitution of any State, an institution that merges with or acquires an insured bank under paragraph (2) or (3) is authorized to be and shall be operated as a subsidiary of an out-of-State bank or bank holding company, except that an out-of-State bank may operate the resulting institution as a subsidiary only if such ownership is otherwise specifically authorized.

"(ii) Any subsidiary created by operation of this subsection may retain and operate any existing branch or branches of the institution merged with or acquired under paragraph (2) or (3), but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

"(iii) No insured institution acquired under this subsection shall after it is acquired move its principal office or any branch office which it would be prohibited from moving if the institution were a national bank.

"(5) In determining whether to arrange a sale of assets and assumption of liabilities or to permit an acquisition or a merger under

the authority of paragraph (2) or (3), the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the closed bank or the bank in danger of closing.

"(6)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer'), is from an offeror that is not an existing in-State bank of the same type as the bank that has closed or is in danger of closing (or, where the closed bank is an insured bank other than a mutual savings bank, the lowest acceptable offer is not from an in-State bank holding company), the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of the same type in different States;

"(iii) Third, between depository institutions of different types in the same State; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(D) In determining the cost of offers and reoffers, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(7) No sale may be made under the provisions of paragraph (2) or (3)—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

"(B) whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Corporation finds that the anticompetitive effects of the proposed transactions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(8) As used in this subsection—

"(A) the term 'receiver' means the Corporation when it has been appointed the receiver of a closed insured bank;

"(B) the term 'insured depository institution' means an insured bank or an association or savings bank insured by the Federal Savings and Loan Insurance Corporation; and

"(C) the term 'in-State depository institution or in-State holding company' means an existing insured depository institution currently operating in the State in which the closed bank or the bank in danger of closing is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed bank or the bank in danger of closing is chartered.".

ASSESSMENTS

SEC. 117. The third sentence of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended—

(1) by striking out "and" before "(3) the insurance losses"; and

(2) by inserting before the period at the end thereof the following: "; and (4) any lending costs for the calendar year, which costs shall be equal to the amount by which the amount of interest earned, if any, from each loan made by the Corporation under section 13 of this Act after January 1, 1982, is less than the amount which the Corporation would have earned in interest for the calendar year if interest had been paid on such loan during such calendar year at a rate equal to the average current value of funds to the United States Treasury for such calendar year".

WAIVER OF NOTICE REQUIREMENTS

SEC. 118. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ". Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing;".

(b) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended by—

(1) striking out "or" before "(3)"; and

(2) by inserting before the period at the end thereof the following: "or (4) a Federal savings bank"

(c) The first sentence of section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting after "no application" the following: "(except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act)".

PART B—FEDERAL HOME LOAN BANK BOARD AMENDMENTS

FEDERAL STOCK SAVINGS INSTITUTIONS

SEC. 121. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by section 112, is amended by adding at the end thereof the following:

"(p)(1) Notwithstanding any other provision of Federal law or the laws or constitution of any State, and consistent with the purposes of this Act, the Board may authorize (or in the case of a Federal association, require) the conversion of a mutual savings and loan association or Federal mutual savings bank that is insured by the Federal Savings and Loan Insurance Corporation into a Federal stock savings and loan association or Federal stock savings bank, or charter a Federal stock savings and loan association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the rules and regulations of the Board.

"(2) Authorizations under this subsection may be made only to assist an institution in receivership, or if the Board has determined that severe financial conditions exist which threaten the stability of an institution and that such authorization is likely to improve the financial condition of the institution, or when the Federal Savings and Loan Insurance Corporation has contracted to provide assistance to such institution under section 406 of the National Housing Act.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provisions of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.".

ASSISTANCE TO THRIFT INSTITUTIONS

SEC. 122. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured institution—

"(A) if such action is taken to prevent the default of such insured institution;

"(B) if, with respect to an insured institution in default, such action is taken to restore such insured institution in default to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured institutions or of insured institutions possessing significant resources, such action is taken in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured institution described in subparagraph (B) with another insured institution or the sale of assets of such insured institution and the assumption of such insured institution's liabilities by another insured institution, the Corporation is authorized, in its sole

discretion and upon such terms and conditions as the Corporation may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation);

"(iii) to guarantee such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation) against loss by reason of such other insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution; or

"(iv) to take any combination of the actions referred to in clauses (i) through (iii).

"(B) An insured institution described in this subparagraph—

"(i) is an insured institution which is in default;

"(ii) is an insured institution which, in the judgment of the Corporation is in danger of default; or

"(iii) is an insured institution which, when severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured institution under section 408(m) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4)(A) No assistance shall be provided under paragraph (1), (2), or (3) of this subsection in an aomunt in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating (including paying the insured accounts of) such insured institution, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured institution is essential to provide adequate savings or home financing services in its community.

"(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured institution. Nothing in the preceding sentences shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

"(b) Section 406(b) of the National Housing Act (12 U.S.C. 1729(b)) is amended to read as follows:

"(b)(1) In the event that a Federal association is in default, the Corporation shall be appointed as conservator or receiver and as such—

"(A) is authorized—

"(i) to take over the assets of and operate such association;

"(ii) to take such action as may be necessary to put it in a sound solvent condition;

"(iii) to merge it with another insured institution;

"(iv) to organize a new Federal association to take over its assets;

"(v) to proceed to liquidate its assets in an orderly manner; or

"(vi) to make such other disposition of the matter as it deems appropriate;

whichever it deems to be in the best interest of the association, its savers, and the Corporation; and

"(B) shall pay all valid credit obligations of the association.

"(2) The corporation shall pay insurance as provided in section 405. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.

"(3) As used in this section, the term 'Federal association' means a Federal savings and loan association or a Federal savings bank.".

(c) Section 406(c) of the National Housing Act (12 U.S.C. 1729(c)) is amended by striking out "savings and loan" wherever it appears.

(d) Section 406(c)(1) of the National Housing Act (12 U.S.C. 1729(c)(1)) is amended by inserting "(A)" after "(c)(1)" and by adding at the end thereof the following:

"(B)(i)(I) Notwithstanding any provision of the constitution or laws of any State, or of this section, in the event the Federal Home Loan bank board determines that any of the grounds specified in section 5(d)(6)(A) (i), (ii), or (iii) of the Home Owners' Loan Act of 1933 exist with respect to an insured institution, other than a Federal association, the Board shall have exclusive power and jurisdiction to appoint the Corporation as sole conservator or receiver of such institution.

"(II) In such cases the corporation shall have the same powers and duties with respect to insured institutions as are conferred upon it under subsection (b) of this section with respect to Federal associations.

"(ii)(I) The authority conferred by this subparagraph shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered insured institution that the grounds specified for such exercise exist.

"(II) If such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board. The corporation may also proceed without State approval if the Corporation

has been appointed conservator, receiver, or other legal custodian pursuant to State law under subparagraph (A).".

(e) The first sentence of section 406(c)(2) of the National Housing Act (12 U.S.C. 1729(c)(2)) is amended by inserting "conservator or" after "sole".

(f) Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)) is amended—

(1) by inserting "conservator or" before "receiver" wherever it appears therein;

(2) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (1) or (2)"; and

(3) by striking out the second sentence.

(g) Section 406(d) of the National Housing Act (12 U.S.C. 1729(d)) is amended to read as follows:

"(d) In connection with the liquidation of insured institutions, the Corporation shall have power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things that may be necessary in connection therewith, subject only to the regulation of the Federal Home Loan Bank Board, or, in cases where the Corporation has been appointed conservator, receiver, or legal custodian solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority.".

EMERGENCY THRIFT ACQUISITIONS

SEC. 123. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(m)(1)(A)(i) Notwithstanding any provision of the laws or constitution of any State or any provision of Federal law, except as provided in subsections (e)(2) and (l) of this section, and in clause (iii) of this subparagraph, the Corporation, upon its determination that severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, may authorize, in its discretion and where it determines such authorization would lessen the risk to the Corporation, an insured institution that is eligible for assistance pursuant to section 406(f) of this Act to merge or consolidate with, or to transfer its assets and liabilities to, any other insured institution or any insured bank (as such term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), may authorize any other insured institution to acquire control of said insured institution, or may authorize any company to acquire control of said insured institution or to acquire the assets or assume the liabilities thereof.

"(ii) Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

"(iii) Where otherwise required by law, transactions under this subsection must be approved by the primary Federal supervisor of the party thereto that is not an insured institution.

"(B)(i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

"(ii) The State official shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) If the State official objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State official, as soon as practicable, a written certification of its determination.

"(2) In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the insured institution.

"(3)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer') is from an institution that is not an existing in-State insured institution or an in-State savings and loan holding company, the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of the same type in different States;

"(iii) Third, between depository institutions of different types in the same State; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.

"(D) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(E) In determining the cost of offers and reoffers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(4) For purposes of this subsection—

"(A) the term 'insured depository institution' means an insured institution or a bank insured by the Federal Deposit Insurance Corporation; and

"(B) the term 'in-State depository institution or in-State depository institution holding company' means an existing insured depository institution currently operating in the State in which the closed institution is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed institution is chartered.

"(5)(A) Where a merger, consolidation, transfer, or acquisition under this subsection involves an insured institution eligible for assistance and a bank or bank holding company, an insured institution may retain and operate any existing branch or branches or any other existing facilities but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

"(B) No such insured institution shall move its principal office or any branch office after it is acquired which it would be prohibited from moving if it were a national bank.

"(C)(i) Notwithstanding the foregoing, if such an insured institution does not have its home office in the State of the bank holding company bank subsidiary, and if such institution does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, then such insured institution shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the insured institution is located.

"(ii) The Corporation, for good cause shown, may allow insured institutions up to two years to comply with the requirements of clause (i).".

(b) Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended—

(1) in the first sentence, by inserting after "subsection" the following: ", or any transaction under subsection (m) of this section,"; and

(2) in the third sentence, by inserting after "acquisition," the following: "except a transaction under subsection (m) of this section,".

ASSISTANCE TO FEDERAL HOME LOAN BANKS MEMBERS

SEC. 124. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by inserting "(a)" after "Sec. 16." and by adding at the end thereof the following:

"(b) Notwithstanding subsection (a) or any other provision of this Act, if the Board determines that severe financial conditions exist threatening the stability of member institutions, the Board may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.".

BORROWING AUTHORITY

SEC. 125. (a) The first sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by inserting before the *period at the end thereof the following: ", except that interest on loans from the Federal Home Loan Banks shall be not less than their current marginal cost of funds, taking into account the maturities involved, and loans from the Federal Home Loan Banks shall be adequately secured, as determined by the Board".*

(b) The first sentence of section 402(i) of the National Housing Act (12 U.S.C. 1725(i)) is amended—

(1) by striking out "any other source" and inserting in lieu thereof "any source other than the Federal Home Loan Banks"; and

(2) by inserting "from the Treasury" after "Provided, That each such loan".

(c) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end thereof the following:

"(k) The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 402(d) of the National Housing Act.".

INSURANCE FUND RESERVES

SEC. 126. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) Notwithstanding any other provision of this section, the Corporation, upon its determination that extraordinary financial conditions exist increasing the risk to the Corporation, may terminate distribution of shares of the secondary reserve and utilize said reserve on the same basis as the primary reserve. If otherwise authorized, the Corporation may resume such distribution upon its determination that said conditions no longer exist.".

FEDERAL HOME LOAN BANK ACT

SEC. 127. Section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)) is amended by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Board may from time to time make such provision as it deems appropriate authorizing the performance by any officer, employee, agent, or administrative unit thereof of any function of the Board (including any function of the Federal Savings and Loan Insurance Corporation), except with regard to promulgation of rules and regulations in accordance with the Administrative Procedure Act, and adjudications subject to such Act.".

CONTINUATION OF INSURANCE

SEC. 128. Section 405(a) of the National Housing Act (12 U.S.C. 1728(a)) is amended by adding after the first sentence the following: "Whenever the liabilities of an insured institution for accounts shall have been assumed by another insured institution or institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, all accounts so assumed shall have separate insurance which shall terminate at the end of six months from the date such assumption takes effect or, in the case of *any certificate account, the earliest maturity date after the six-month period.".*

PART C—CREDIT UNIONS

CREDIT UNION MERGERS

SEC. 131. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following:

"(h) Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that—

"(1) an emergency requiring expeditious action exists with respect to such other insured credit union;

"(2) other alternatives are not reasonably available; and

"(3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

"(i) (1) Notwithstanding any other provision of this Act or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

"(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.".

BOARD'S AUTHORITY AS CONSERVATOR

SEC. 132. (a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by redesignating subsections (h) through (o) as subsections (i) through (p), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Board may, ex parte without notice, appoint itself as conservator and immediately take possession and control of the business and assets of any insured credit union in any case in which—

"(A) the Board determines that such action is necessary to conserve the assets of any insured credit union or to protect the Fund or the interests of the members of such insured credit union; or

"(B) an insured credit union, by a resolution of its board of directors, consents to such an action by the Board.

"(2)(A) In the case of a State-chartered insured credit union, the authority conferred by paragraph (1) shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered credit union that the grounds specified for such exercise exist.

"(B) If such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board.

"(3) Not later than ten days after the date on which the Board takes possession and control of the business and assets of an insured credit union pursuant to paragraph (1), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located, or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be enjoined from continuing such possession and control.

"(4) Except as provided in paragraph (3), in the case of a Federal credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the Board; or

"(B) as such credit union is liquidated in accordance with the provisions of section 207.

"(5) Except as provided in paragraph (3), in the case of an insured State-chartered credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business, subject to such terms and conditions as may be imposed by the Board;

"(B) as the Board shall permit the transfer of possession and control of such credit union to any commission, board, or authority which has supervisory authority over such credit union and which is authorized by State law to operate such credit union; or

"(C) as such credit union is liquidated in accordance with the provisions of section 207.

"(6) The Board may appoint such agents as it considers necessary in order to assist the Board in carrying out its duties as a conservator under this subsection.

"(7) All expenses incurred by the Board in exercising its authority under this subsection with respect to any credit union shall be paid out of the assets of such credit union.

"(8) The authority granted by this subsection is in addition to all other authority granted to the Board under this Act.".

(b) Section 206(b)(2) of the Federal Credit Union Act (12 U.S.C. 1786(b)(2)) is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(c) Section 206(j)(1) of such Act (12 U.S.C. 1786(j)(1)), as so redesignated by subsection (a), is amended—

(1) in the first sentence, by striking out "subsection (h)(3)" and inserting in lieu thereof "subsection (i)(3)"; and

(2) in the fourth sentence, by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(d) The first sentence of section 206(j)(2) of such Act (12 U.S.C. 1786(j)(2)), as redesignated by subsection (a), is amended by striking out "subsection (h)(1)" and inserting in lieu thereof "subsection (i)(1)".

(e) The first sentence of section 206(1) of such Act (12 U.S.C. 1786(1)), as redesignated by subsection (a), is amended by striking out "(h)" and inserting in lieu thereof "(i)".

(f) Section 206(m) of such Act (12 U.S.C. 1786(m)), as redesignated by subsection (a), is amended—

(1) by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)"; and

(2) by striking out "subsection (h)" and inserting in lieu thereof "subsection (i)".

(g) The section heading for section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting "; TAKING POSSESSION OF BUSINESS AND ASSETS" after "COMMITTEE MEMBERS".

PART D—SUNSET PROVISION

SUNSET OF CERTAIN PROVISIONS

SEC. 141. (a) Effective upon the expiration of three years after the date of enactment of this Act—

(1) section 13(c)(5) of the Federal Deposit Insurance Act, as added by section 111 of this Act, shall be repealed;

(2) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners' Loan Act of 1933, as added by section 112 of this Act, shall be repealed;

(3) the provision of law amended by section 116 of this Act shall be amended to read as it would without such amendment;

(4) the provisions of law amended by subsections (a) and (c) of section 118 shall be amended to read as they would without such amendments;

(5) the provision of law amended by section 121 of this Act shall be amended to read as it would without such amendment;

(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act shall be amended to read as they would without such amendments;

(7) the provisions of law amended by section 123 of this Act shall be amended to read as they would without such amendments; and

(8) the provisions of law amended by section 131 and 132 shall be amended to read as they would without such amendments.

(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect.

TITLE II—NET WORTH CERTIFICATES

SHORT TITLE

SEC. 201. This title may be cited as the "Net Worth Certificate Act".

INSURED INSTITUTIONS

SEC. 202. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), as amended by section 122 of this Act, is amended by adding at the end thereof the following:

"(5)(A)(i) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act or the Home Owners' Loan Act of 1933, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be known as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such qualified institution, and may authorize such institution to issue such net worth certificates, pursuant to this paragraph.

"(ii) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

"(iii) In making a determination under this paragraph, the State supervisor of the State in which a State chartered institution which is the subject of the eligibility determination is located shall be consulted.

"(iv) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

"(B) For the purposes of this paragraph, the term 'qualified institution' means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

"(i) has net worth equal to or less than 3 per centum of its assets;

"(ii) has incurred losses during the two previous quarters;

"(iii) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

"(iv) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compli-

ance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(v) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(vi) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

"(C) (i) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will have positive net worth for a period of at least six months after such certificates are purchased.

"(ii) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to make specified management personnel changes if the Corporation finds that if such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

"(D) In any case where the staff of the Corporation finds for the purpose of subparagraph (C) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff's findings by, the Board.

"(E) The Corporation may initially purchase net worth certificates as follows:

"(i) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(ii) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(iii) With respect to a qualified institution having net worth less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not

occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(F) In the exercise of its authority under this paragraph, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in subparagraph (E), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution's operating losses incurred for the immediate preceding period.

"(G) No assistance may be provided to a qualified institution pursuant to this paragraph if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with paragraph (1) or (2) of this subsection.

"(H) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, (ii) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (iii) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph, continuing operations, or paying interest or dividends.

"(I) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this paragraph, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

"(J) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes.

"(K) The Corporation may not use its authority under this paragraph to purchase the voting or common stock of a qualified institution. Nothing in this subparagraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(L) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

"(i) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this paragraph to such qualified institution; and

"(ii) during any period when such qualified institution has outstanding capital instruments issued in accordance with this paragraph, the State insurance fund maintains a level of as-

sessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.

"(M) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this paragraph, such qualified insured institution may not pay dividends to its shareholders.".

(b) Section 5(b)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(5)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Net worth certificates issued by an association pursuant to section 406(f) of the National Housing Act shall constitute part of the general reserves and net worth of the association, in accordance with the rules and regulations of the Board."; and

(2) by adding at the end thereof a new subparagraph (C) as follows:

"(C) The Board shall provide in its rules and regulations for charging losses to mutual capital certificates, net worth certificates issued pursuant to section 406(f) of the National Housing Act, reserves, and other net worth accounts.".

(c) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended—

(1) in the fourth-to-last sentence by inserting after "items," the following: "including net worth certificates issued pursuant to section 406(f) of this act,"; and

(2) in the second-to-last sentence by striking out "the mutual capital certificate" and inserting in lieu thereof "mutual capital certificates, net worth certificates issued pursuant to section 406(f) of this Act,".

(d) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out "will provide adequate reserves satisfactory to the Corporation" and all that follows through the end of the sentence immediately preceding the fourth sentence from the end of such subsection, and inserting in lieu thereof the following: "and will provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation.".

INSURED BANKS

SEC. 203. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823), as amended by section 113 of this Act is amended by adding at the end thereof the following:

"(i)(1)(A) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be know as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such institution, and may authorize such institution to issue net worth certificates, pursuant to this subsection.

"(B) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

"(C) In making a determination under this subsection, the corporation shall consult the State supervisor of the State in which a State chartered bank which is the subject of the eligibility determination is located, and in the case of a State member bank or a national bank, the Corporation shall consult the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, respectively.

"(D) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

"(2) For the purposes of this subsection, the term 'qualified institution' means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

"(A) has net worth equal to or less than 3 per centum of its assets;

"(B) has incurred losses during the two previous quarters;

"(C) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

"(D) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(E) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(F) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

"(3)(A) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will have positive net worth for a period of at least six months after such certificates are purchased.

"(B) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to make specified management personnel changes if the Cor-

poration finds that such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

"(4) In any case where the staff of the Corporation finds for the purpose of paragraph (3) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff's findings by, the Board.

"(5) The Corporation may initially purchase net worth certificates as follows:

> *"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.*
>
> *"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.*
>
> *"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.*

"(6) In the exercise of its authority under this subsection, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in paragraph (5), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution's operating losses incurred for the immediately preceding period.

"(7) No assistance may be provided to a qualified institution pursuant to this subsection if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with subsection (c) or (d) of this subsection.

"(8) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (A) to take part in programs under this subsection, (B) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (C) to continue operations, including

the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this subsection, continuing operations, or paying interest or dividends.

"(9) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this subsection, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth for statutory and regulatory purposes.

"(11) The Corporation may not use its authority under this subsection to purchase the voting or common stock of a qualified institution. Nothing in this paragraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(12) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

> *"(A) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this subsection to such qualified institution; and*
>
> *"(B) during any period when such qualified institution has outstanding capital instruments issued in accordance with this subsection, the State insurance fund maintains a level of assessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.*

"(13) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this subsection, such qualified insured institution may not pay dividends to its shareholders.".

REPORTS TO CONGRESS

SEC. 204. The Federal Home Loan Bank Board and the Board of Directors of the Federal Deposit Insurance Corporation shall each transmit an annual report to each House of the Congress specifying the types and amounts of net worth certificates purchased from each depository institution and the conditions imposed on each such depository institution.

GENERAL ACCOUNTING OFFICE AUDIT

SEC. 205. The Comptroller General of the United States shall conduct on a semiannual basis an audit of the net worth certificate programs of the Federal Deposit Insurance Corporation and the Fed-

eral Home Loan Bank Board. A report on each such audit shall be transmitted to each House of the Congress.

REPEAL

Sec. 206. Upon the expiration of 3 years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

SHORT TITLE

Sec. 301. This title may be cited as the "Thrift Institutions Restructuring Act".

Part A—Form of Charter; Demand Accounts

CHARTERING AND PURPOSE

Sec. 311. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"Sec. 5. (a) In order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing.".

DEMAND ACCOUNTS AND CAPITAL STOCK

Sec. 312. Paragraphs (1) and (2) of section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) are amended to read as follows:

"(1)(A) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as savings accounts), or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of deposit, or other evidence of accounts as are so authorized.

"(B) An association may also accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of an association shall, to such extent as may be provided by its charter or by regula-

tions of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided.

"(C) Except as may be otherwise authorized by an association's charter or regulation of the Board in the case of savings accounts for fixed or minimum terms of not less than fourteen days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than fourteen days, as shall be provided for by the charter of the association or the regulations of the Board.

"(D) The payment of withdrawals from accounts in the event an association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice) shall be subject to such rules and procedures as may be prescribed by the association's charter or by regulation of the Board, but any association which, except as authorized in writing by the Board, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of subsection (d) of this section.

"(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the Board may by regulation provide.

"(F) Notwithstanding any limitation of this section, associations may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.

"(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock, as the Board may so authorize.".

CONVERSIONS TO FEDERAL CHARTERS

SEC. 313. Section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended to read as follows:

"(i)(1) Any institution which is, or is eligible to become, a member of a Federal home loan bank may convert itself into a Federal savings and loan association or Federal savings bank under this Act (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form), but such conversion shall be subject to such rules and regulations as the Board shall prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

"(2) Subject to the rules and regulations of the Board, any Federal association may convert itself from the mutual form to the stock form of organization, or from the stock form to the mutual form, and any Federal association may change its designation from a Federal savings and loan association to a Federal savings bank, or the reverse.

"(3)(A) Any Federal association may convert itself into a savings and loan or savings bank type of institution organized pursuant to

the laws of the State, district, commonwealth, or territory (hereinafter referred to in this section as the 'State') in which the principal office of such Federal association is located if—

"(i) the State permits the conversion of any savings and loan or savings bank type of institution of such State into a Federal association;

"(ii) such conversion of a Federal association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association;

"(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least thirty and not more than sixty days prior to the date of the meeting, to each member or stockholder of record of the Federal association at his last address as shown on the books of the Federal association and to the General Counsel of the Federal Home Loan Bank Board, Washington, District of Columbia;

"(iv) in the event of dissolution of a mutual association after conversion, the members or shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(v) in the event of dissolution of a stock association after conversion, the stockholders will share on an equitable basis in the assets of the association; and

"(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located.

"(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 403 of the National Housing Act.

"(ii) The association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State.

"(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) Any aggrieved person may obtain review of a final action of the Board or the Federal Savings and Loan Insurance Corporation which approves, with or without conditions, or disapproves a plan

of conversion from the mutual to the stock form, only by complying with the provisions of subsection (k) of section 408 of the National Housing Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5)(A) To the extent authorized by the Board—

"(i) any Federal savings bank chartered as such prior to the enactment of this paragraph may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to such enactment; and

"(ii) any Federal savings bank formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

"(B) The authority conferred by this paragraph may be utilized by any Federal association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfathered rights hereunder.".

CONVERSION FROM STATE MUTUAL TO STATE STOCK

SEC. 314. Section 402(j) of the National Housing Act (12 U.S.C. 1725(j)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in section 5 of the Home Owners' Loan Act of 1933, no insured institution may convert from the mutual to the stock form except in accordance with the rules and regulations of the Corporation."; and

(2) by striking out paragraphs (2), (3), (5), and (6) and redesignating paragraph (4) as paragraph (2).

PART B--INVESTMENTS

OVERDRAFTS

SEC. 321. Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended to read as follows:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.".

REAL ESTATE LOANS

SEC. 322. Section 5(c)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(B)) is amended to read as follows:

"(B) REAL PROPERTY LOANS.—Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets.".

TIME DEPOSITS

SEC. 323. Section 5 (c)(1)(G) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(G)) is amended to read as follows:

"(G) DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or in the savings accounts, certificates, or other accounts of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.".

GOVERNMENT SECURITIES

SEC. 324. Section 5(c)(1)(H) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(H)) is amended to read as follows:

"(H) STATE SECURITIES.—Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer.".

COMMERCIAL AND OTHER LOANS

SEC. 325. Section 5(c)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(R) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. No association may make loans to one borrower under the authority provided by this subparagraph in excess of the amount a national bank having an identical total capital and surplus could lend such borrower. The aggregate amount of loans under this paragraph shall not exceed 5 per centum of the assets of a savings and loan association (7½ per centum of the assets of a savings bank) prior to January 1, 1984, or 10 per centum of the assets of a savings and loan association or savings bank thereafter.".

ELIMINATION OF DIFFERENTIAL

SEC. 326. (a) Section 102 of Public Law 94-200 is repealed.

(b)(1) Interest rate differentials for all categories of deposits or accounts between (i) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (ii) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)), shall be phased out on or before January 1, 1984.

(2) Any differential which is being phased out pursuant to a schedule established by regulations prescribed by the Depository Institutions Deregulation Committee prior to the date of enactment of

this Act shall be phased out as soon as practicable, but in no event later than such schedule provides.

(3) Notwithstanding any other provision of law, no differential for any category of deposits or accounts shall be established or maintained on or after January 1, 1984.

(c) No interest rate differential may be established or maintained in the case of the deposit account authorized pursuant to section 204(c) of the Depository Institutions Deregulation Act of 1980.

(d) In the case of the elimination or reduction of any interest rate differential under subsection (b) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act, the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

MONEY MARKET DEPOSIT ACCOUNT

SEC. 327. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503) is amended by adding at the end thereof the following:

"(c)(1) The Committee shall issue a regulation authorizing a new deposit account, effective not later than 60 days after the date of enactment of this subsection. Such account shall be directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940.

"(2) No limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the account authorized by this subsection.

"(3) For purposes of section 19(b) of the Federal Reserve Act, accounts established pursuant to this subsection which are not 'transaction accounts' as defined by the reserve requirement regulations of the Board of Governors of the Federal Reserve System as those regulations existed on August 1, 1982, shall not be subject to transaction account reserves, even though no minimum maturity is required, and even though up to three preauthorized or automatic transfers and three transfers to third parties are permitted monthly.".

HOUSING AND LAND DEVELOPMENT LOANS

SEC. 328. Section 5(c)(1)(O) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(O)) is amended to read as follows:

"(O) HOUSING AND LAND AND URBAN DEVELOPMENT INSURED OR GUARANTEED INVESTMENTS.—Loans (i) secured by mortgages

as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) as to which the association has the benefit of any guarantee under title IV of the Housing and Urban Development Act of 1968 or under part B of the National Urban Policy and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974, or of a commitment or agreement therefor.".

CONSUMER LOANS

SEC. 329. Section 5(c)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(2)(B)) is amended—

(1) by inserting ", including loans reasonably incident to the provision of such credit," after "household purposes"; and

(2) by inserting before the period at the end thereof the following: ", except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association".

ADDITIONAL INVESTMENT AUTHORITIES

SEC. 330. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (2), by striking out "20 per centum" and inserting in lieu thereof "the following percentages";

(2) by redesignating paragraph (6) as paragraph (5);

(3) by striking out paragraph (2)(A) and inserting in lieu thereof the following:

"(A) INVESTMENTS IN PESONALTY.—Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.";

(4) in paragraph (3)—

(A) by striking out subparagraph (D); and

(B) by amending subparagraph (A) to read as follows:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses."; and

(5) in paragraph (4)—

(A) by amending subparagraph (C) to read as follows:

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under this subparagraph shall not exceed, in the case of

any association, 1 per centum of the assets of such association."; and

(B) by amending subparagraph (D) to read as follows:

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

TYING ARRANGEMENTS

SEC. 331. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112 and 121, is amended by adding at the end thereof the following:

"(q)(1) An association shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"(3) any person who is injured in his business or property by reason of anything forbidden in paragraph (1) may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or may sue therefor in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of

the damages sustained by him, and the cost of suit, including a reasonable attorney's fee. Any such suit shall be brought within four years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Board under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection—

"(A) the term 'affiliate' of an association means any individual or company (including any corporation, partnership, trust, joint-stock company, or similar organization) which controls, is controlled by, or is under common control with such association; and

"(B) the term 'loan' includes obligations and extensions or advances of credit.".

LIQUIDITY INVESTMENTS

SEC. 332. Section 5A(b)(1)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(B)) is amended by striking out "and commercial banks" and inserting in lieu thereof the following: ", institutions which are, or are eligible to become, members thereof, and commercial banks".

REGULATORY JURISDICTION

SEC. 333. Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after "Islands" the following: ", except an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board,".

BRANCHING

SEC. 334. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112, 121, and 331, is amended by adding at the end thereof the following:

"(r)(1) No association may establish, retain, or operate a branch outside the State in which the association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the association attributable to all branches of the association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under said section 7701(a)(19).

"(2) The limitations of paragraph (1) shall not apply if—

"(A) the branch results from a transaction authorized under section 408(m) of the National Housing Act;

"(B) the branch was authorized for the association prior to the enactment of the Depository Institutions Amendments of 1982;

"(C) the law of the State in which the branch is or is to be located would permit establishment of the branch were the association an institution of the savings and loan or savings bank type chartered by the State in which its home office is locate; or

"(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

"(3) The Board, for good cause shown, may allow associations up to two years to comply with the requirements of this subsection.".

HOLDING COMPANY ACTIVITIES

SEC. 335. Section 408 of the National Housing Act (12 U.S.C. 1730a), as amended by section 123, is amended by adding at the end thereof the following:

"(n) A savings and loan holding company, or any subsidiary thereof which is not an insured institution, whose subsidiary insured institution fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, may not commence, or continue for more than three years after such failure, any business activity other than those specified for multiple savings and loan holding companies and their subsidiaries under subsection (c)(2) of this section.".

PART C—PREEMPTION OF DUE-ON-SALE PROHIBITIONS

DUE-ON-SALE CLAUSES

SEC. 341. (a) For the purpose of this section—

(1) the term "due-on-sale clause" means a contract provision which authorizes a lender, at its option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender's prior written consent;

(2) the term "lender" means a person or government agency making a real property loan or any assignee or transferee, in whole or in part, of such a person or agency;

(3) the term "real property loan" means a loan, mortgage, advance, or credit sale secured by a lien on real property, the stock allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property; and

(4) the term "residential manufactured home" means a manufactured home as defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974 which is used as a residence; and

(5) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b)(1) Notwithstanding any provision of the constitution or laws (including the judicial decisions) of any State to the contrary, a lender may, subject to subsection (c), enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan.

(2) Except as otherwise provided in subsection (d), the exercise by the lender of its option pursuant to such a clause shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by the contract.

(3) In the exercise of its option under a due-on-sale clause, a lender is encouraged to permit an assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates, and nothing in this section shall be interpreted to prohibit any such assumption.

(c)(1) In the case of a contract involving a real property loan which was made or assumed, including a transfer of the liened property subject to the real property loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such State has rendered a decision (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment if such decision applies State-wide) prohibiting such exercise, and ending on the date of enactment of this section, the provisions of subsection (b) shall apply only in the case of a transfer which occurs on or after the expiration of 3 years after the date of enactment of this Act, except that—

(A) a State, by a State law enacted by the State legislature prior to the close of such 3-year period, with respect to real property loans originated in the State by lenders other than national banks, Federal savings and loan associations, Federal savings banks, and Federal credit unions, may otherwise regulate such contracts, in which case subsection (b) shall apply only if such State law so provides; and

(B) the Comptroller of the Currency with respect to real property loans originated by national banks or the National Credit Union Administration Board with respect to real property loans originated by Federal credit unions may, by regulation prescribed prior to the close of such period, otherwise regulate such contracts, in which case subsection (b) shall apply only if such regulation so provides.

(2)(A) For any contract to which subsection (b) does not apply pursuant to this subsection, a lender may require any successor or transferee of the borrower to meet customary credit standards applied to loans secured by similar property, and the lender may declare the loan due and payable pursuant to the terms of the contract upon transfer to any successor or transferee of the borrower who fails to meet such customary credit standards.

(B) A lender may not exercise its option pursuant to a due-on-sale clause in the case of a transfer of a real property loan which is subject to this subsection where the transfer occurred prior to the date of enactment of this Act.

(C) This subsection does not apply to a loan which was originated by a Federal savings and loan association or Federal savings bank.

(d) A lender may not exercise its option pursuant to a due-on-sale clause upon—

(1) the creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(2) the creation of a purchase money security interest for household appliances;

(3) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(4) the granting of a leasehold interest of three years or less not containing an option to purchase;

(5) a transfer to a relative resulting from the death of a borrower;

(6) a transfer where the spouse or children of the borrower become an owner of the property;

(7) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(8) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(9) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

(e)(1) The Federal Home Loan Bank Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(2) Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due-on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.

(f) The Federal Home Loan Mortgage Corporation (hereinafter referred to as the "Corporation") shall not, prior to July 1, 1983, implement the change in its policy announced on July 2, 1982, with respect to enforcement of due-on-sale clauses in real property loans which are owned in whole or in part by the Corporation.

(g) Federal Home Loan Bank Board regulations restricting the use of a balloon payment shall not apply to a loan, mortgage, advance, or credit sale to which this section applies.

PART D—MISCELLANEOUS

ATTORNEYS FEES

SEC. 351. The last sentence of section 5(d)(8)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(A)) is amended by inserting ", which prevails," after "party".

SECURITY FOR ADVANCES

SEC. 352. Section 10 of the Federal Loan Bank Act (12 U.S.C. 1430) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.";

(2) by striking out the first two sentences of subsection (b); and

(3) by striking out the word "twelve" wherever it appears in subsection (c) and inserting in lieu thereof the word "twenty".

DELETION OF OBSOLETE REQUIREMENT

SEC. 353. Section 6(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(c)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 10 of this Act of within the meaning of regulations of the Board defining such term for the purposes of this sentence, made by such bank to such member to exceed twenty times the amounts paid in by such member for outstanding capital stock held by such member.".

COMPENSATION OF ADVISORY COMMITTEE MEMBERS

SEC. 354. Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is amended by striking out the fifth sentence and inserting in lieu thereof the following: "Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members and alternates of the Council may be compensated and shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council.".

WITHDRAWAL FROM MEMBERSHIP

SEC. 355. (a) Section 6(i) of the Federal Home Loan Bank Act (12 U.S.C. 1426(i)) is amended by inserting before the period at the end of the second sentence the following: ", except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties applicable to such prepayment".

(b) Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended by adding at the end thereof the following:

"(m) Notwithstanding any other provision of this Act, an institution which withdraws from membership may acquire membership in any Federal Home Loan Bank only after the expiration of a period of five years thereafter, except where such withdrawal is a consequence of a transfer of membership on a non-interrupted basis between Banks.".

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

PART A—GENERAL PROVISIONS

LENDING LIMITS

SEC. 401. (a) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended to read as follows:

"SEC. 5200. (a)(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

"(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

"(b) For the purposes of this section—

"(1) the term 'loans and extensions of credit' shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

"(2) the term 'person' shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

"(c) The limitations contained in subsection (a) shall be subject to the following exceptions:

"(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

"(2) The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

"(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times

equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

"(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

"(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

"(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

"(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

"(8) (A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a) (2).

"(B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

"(9)(A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

"(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, not-

withstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

"(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

"(d)(1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit.

"(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.".

(b) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BORROWING LIMITS

SEC. 402. (a) Section 5202 of the Revised Statutes (12 U.S.C. 82) is repealed.

REAL ESTATE LOANS

SEC. 403. (a) Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended to read as follows:

"REAL ESTATE LOANS

"SEC. 24. (a) Any national banking association may make, arrange, purchase or sell loans or extensions of credit secured by liens on interests in real estate, subject to such terms, conditions, and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation.

"(b) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of the Federal Reserve Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.".

(b) The Act of September 7, 1916 (12 U.S.C. 92; 39 Stat. 753) is amended—

(1) by striking out "; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission"; and

(2) by striking out "guarantee either the principal or interest of any such loans or".

(c) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BANKERS' BANKS

SEC. 404. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended—

(1) by inserting "(a)" before "If,"; and

(2) by adding at the end thereof the following:

"(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.

"(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.".

(b) The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by striking out "Provided further, That," and all that follows through the end thereof and by inserting in lieu thereof the following: "Provided further, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

"(5) This section shall apply, in the same manner as it applies to any insured bank for which the appropriate Federal banking agency is the Comptroller of the Currency, to any national banking association chartered by the Comptroller of the Currency, including an uninsured association.".

(d)(1) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by adding at the end thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or by a bank holding company which is owned exclusively by other depository institutions and is organized to

engage exclusively in providing services for other depository institutions and their officers, directors, and employees.".

(2) Section 3(e) of such Act is amended by adding at the end thereof the following: "This subsection does not apply to a bank described in the last sentence of section 2(c).".

NAME OR HEADQUARTERS CHANGE

SEC. 405. (a) Section 2 of the Act of May 1, 1886 (24 Stat. 18; 12 U.S.C. 30) is amended to read as follows:

"SEC. 2. (a) Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word 'National'.

"(b) Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.".

(b) The first proviso of section 5134 of the Revised Statutes (12 U.S.C. 22) is amended by placing a period after the word "national" and striking the remainder of that sentence.

VENUE PROVISIONS

SEC. 406. Section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows:

"SEC. 5198. Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.".

LEGAL HOLIDAYS

SEC. 407. The last sentence of section 4(b)(1) of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95(b)(1)) is amended to read as follows: "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise.".

UNCLAIMED PROPERTY

SEC. 408. Title VII of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by adding after section 723 the following:

"PART C—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

"PURPOSE

"SEC. 731. The purpose of this part is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by—

"(1) providing final notice of the availability of unclaimed property from closed national banks and closed banks in the District of Columbia;

"(2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and

"(3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this part.

"DEFINITIONS

"SEC. 732. For purposes of this part—

"(1) the term 'Comptroller' means the Comptroller of the Currency;

"(2) the term 'unclaimed property' means any articles, items, assets, other property, or the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks or closed banks in the District of Columbia, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and

"(3) the term 'claimant' means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

"DISPOSITION OF UNCLAIMED PROPERTY

"SEC. 733. (a)(1) Within twelve months following the date of the enactment of this part, the Comptroller shall publish formal notice in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred.

"(2) Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate.

"(3)(A) The Comptroller shall not disclose, by publication, inspection or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section.

"(B) Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this part. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

"(b)(1) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register.

"(2)(A) The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this part.

"(B) All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

"(c)(1) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States.

"(2) The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection.

"(3) The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

"(d) The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this part or for any delivery, sale, destruction, or other disposition of unclaimed property.

"(e)(1) A court action to determine legal ownership entitlement, or right to possession may be filed in any State or Federal court of competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof.

"(2) Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person.

"(3) The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

"(f)(1) The United States Claims Court shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any determination of a claim or the disposition of any unclaimed property.

"(2) The United States Claims Court may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(3) All claims for which the United States Claims Court has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this part.

"(4) For purposes of section 1491 of title 28, United States Code, any Claim against the Comptroller, the United States, or any officer, employee, or agent thereof shall be considered a claim against the United States.

"RULEMAKING AUTHORITY

"SEC. 734. The Comptroller may issue rules and regulations necessary or appropriate to carry out this part.

"SEVERABILITY

"SEC. 735. If any provision of this part or the application of such provision to any person or circumstance is held invalid, the remainder of this part and the application of such provision to other persons or circumstances shall not be affected thereby.".

AMENDMENTS TO DEREGULATION ACT

"SEC. 409. Sections 721 and 722 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 191 note) are amended by striking out the phrase "closed on or before January 22, 1934" each place it appears and inserting in lieu thereof "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation".

BANKING AFFILIATES

SEC. 410. (a) This section may be cited as the "Banking Affiliates Act of 1982".

(b) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended to read as follows:

"SEC. 23A. (a) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—

"(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

"(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

"(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiar-

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"(2) Such investments may be made only in interest bearing securities of the United States with maturities requested by the Board bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) All income derived from such investments and reinvestments shall be deposited to the account of the Administration described in subsection (d).".

TECHNICAL AMENDMENT

SEC. 506. Section 107(5)(A) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and be adding at the end thereof the following:

> "(x) loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's unimpaired capital and surplus.".

REAL ESTATE LENDING; MAXIMUM MATURITY

SEC. 507. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by inserting "or such other limits as shall be set by the National Credit Union Association Board" after "not exceeding thirty years.".

REAL ESTATE LENDING; MEDIAN PRICE RULE

SEC. 508. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "the sales price of which is not more than 150 per centum of the median sales price of residential real property situated in the geographical area (as determined by the board of directors) in which the property is located.".

REAL ESTATE LENDING; REFINANCING

SEC. 509. Section 107(5)(A)(i) of the Federal credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "which is made to finance the acquisition of" and inserting in lieu thereof "on" and by striking out "for" the first time it appears and inserting in lieu therof "that is or will be".

REAL ESTATE LENDING; SECOND MORTGAGES

SEC. 510. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii) is amended to read as follows:

> "(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lein on such mobile home, to be used by the credit union member as his residence, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed fif-

ies will not exceed 20 per centum of the capital stock and surplus of the member bank.

"(2) For the purpose of this section, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

"(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

"(4) Any covered transactions and any transactions exempt under subsection (d) between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'affiliate' with respect to a member bank means—

"(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

"(B) a bank subsidiary of the member bank;

"(C) any company—

"(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

"(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

"(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

"(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940; and

"(E) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

"(2) the following shall not be considered to be an affiliate:

"(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under paragraph (1) (E) not to exclude such subsidiary company from the definition of affiliate;

"(B) any company engaged solely in holding the premises of the member bank;

"(C) any company engaged solely in conducting a safe deposit business;

"(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

"(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

"(3)(A) a company or shareholder shall be deemed to have control over another company if—

"(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

"(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

"(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

"(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

"(4) the term 'subsidiary' with respect to a specified company means a company that is controlled by such specified company;

"(5) the term 'bank' includes a State bank, national bank, banking association, and trust company;

"(6) the term 'company' means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term 'company' includes a 'member bank' and a 'bank';

"(7) the term 'covered transaction' means with respect to an affiliate of a member bank—

"(A) a loan or extension of credit to the affiliate;

"(B) a purchase of or an investment in securities issued by the affiliate;

"(C) a purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

"(D) the acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

"(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

"(8) the term 'aggregate amount of covered transactions' means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

"(9) the term 'securities' means stocks, bonds, debentures, notes, or other similar obligations; and

"(10) the term 'low-quality asset' means an asset that falls in any one or more of the following categories:

"(A) an asset classified as 'substandard', 'doubtful', or 'loss' or treated as 'other loans especially mentioned' in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

"(B) an asset in a nonaccrual status;

"(C) an asset on which principal or interest payments are more than thirty days past due; or

"(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

"(c) COLLATERAL FOR CERTAIN TRANSACTIONS WITH AFFILIATES.—

"(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to—

"(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

"(i) obligations of the United States or its agencies;

"(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

"(iii) notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

"(iv) a segregated, earmarked deposit account with the member bank;

"(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

"(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

"(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

"(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.

"(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.

"(4) The securities issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the member bank.

"(5) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

"(d) EXEMPTIONS.—The provisions of this section, except paragraph (a)(4), shall not be applicable to—

"(1) any transaction, except for the purchase of a low-quality asset which is prohibited, with a bank—

"(A) which controls 80 per centum or more of the voting shares of the member bank;

"(B) in which the member bank controls 80 per centum or more of the voting shares; or

"(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

"(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

"(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

"(4) making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

"(A) obligations of the United States or its agencies;

"(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

"(C) a segregated, earmarked deposit account with the member bank;

"(5) purchasing securities issued by any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956;

"(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or purchasing loans on a non-recourse basis from affiliated banks; and

"(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to repurchase agreement or with recourse.

"(e) RULEMAKING AND ADDITIONAL EXEMPTIONS.—

"(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

"(2) The Board may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.".

(c) Section 23A of the Federal Reserve Act, as amended by this section, shall apply to any transaction entered into after the date of enactment of this Act, except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act, or any participation in a loan to such an affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act.

(d) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by striking out ", within the meaning of section 2 of the Banking Act of 1933, and".

(e) Section 22(h)(6)(C) of the Federal Reserve Act (12 U.S.C. 375b-(6)(C)) is repealed and subparagraphs (D) through (G) of such section are redesignated as subparagraphs (C) through (F), respectively.

(f) Section 106(b)(2)(E) of the Bank Holding Company Amendments of 1970 (12 U.S.C. 1972(2)(E)) is amended by striking out "the same meaning given it in section 23A of the Federal Reserve Act" and inserting in lieu thereof "the meaning prescribed by the Board pursuant to section 22(h) of the Federal Reserve Act (12 U.S.C. 375b),".

(g) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting "as in section 2(b) of the Banking Act of 1933 (12 U.S.C. 221a(b)) and" after "shall have the same meaning".

EXEMPTION FROM RESERVE REQUIREMENTS

Sec. 411. (a) Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end thereof the following:

"(11) Additional exemptions.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed $2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

"(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

"(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than $2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

"(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

"(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.".

(b) Section 19(b)(4)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(4)(A)(iv)) is amended by inserting "except as provided in paragraph (11)," after "requirement is imposed,".

(c) Section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

> *"(E) The term 'reservable liabilities' means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).".*

VISITORIAL POWERS

SEC. 412. Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

"SEC. 5240. (a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

"(b) Notwithstanding subsection (a), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.".

REAL ESTATE HOLDING PERIOD

SEC. 413. Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended by striking out the last paragraph thereof and inserting in lieu thereof the following:

"Notwithstanding the five-year holding limitation of this section or any other provision of this title, any national banking association which on the date of enactment of this paragraph held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.".

PART B—FINANCIAL INSTITUTIONS REGULATORY ACT AMENDMENTS

LOAN LIMITS

SEC. 421. (a) Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by striking out "not exceeding $60,000" in paragraph (2), and by striking out ", not exceeding the aggregate amount of $20,000 outstanding at any one time," in paragraph (3).

(b) Paragraph (4) of section 22(g) of the Federal Reserve Act (12 U.S.C. 375a(4)) is amended by striking "not exceeding the aggregate amount of $10,000 outstanding at any one time" and inserting in lieu thereof "in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency".

APPROVAL OF CERTAIN LOANS

SEC. 422. Paragraph (2) of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended by striking out "$25,000" and inserting in lieu thereof "an amount prescribed in a regulation of the appropriate Federal banking agency".

EXCLUSION OF FOREIGN BANKS

SEC. 423. Section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)) is amended by adding at the end thereof the following: "The provisions of this subsection shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), having an insured branch in the United States, but shall apply to the insured branch.".

CIVIL MONEY PENALTIES

SEC. 424. (a) Section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(1)); section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)); section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)); and section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the Board may, in its discretion, *compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".*

(b) Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)); section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A)); and section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".

(c) Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)); section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)); and section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority".

(d) Each of the following provisions is amended by striking the term "shall" and inserting in lieu thereof the term "may":

(1) The second sentence of section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a));

(2) The second sentence of section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(l));

(3) The second sentence of section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1));

(4) The second sentence of section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1));

(5) The second sentence of section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A));

(6) The second sentence of section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i));

(7) The second sentence of section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A));

(8) The second sentence of section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i));

(9) The second sentence of section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A));

(10) The second sentence of section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)); and

(11) The second sentence of section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)).

(e) Sections 29(d) and 19(1)(4) of the Federal Reserve Act (12 U.S.C. 504(d) and 505(4)), 18(j)(3)(D) and 8(i)(2)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(D) and 1818(i)(2)(iv)), 407(k)(3)(D) of the National Housing Act (12 U.S.C. 1730(k)(3)(D)), 5(d)(8)(B)(iv) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(iv)), 206(j)(2)(D) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(D)), and 106(b)(2)(F)(iv) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(iv)) are amended by striking out "ten

days from the date" in each section and inserting in lieu thereof "twenty days from the service".

(f) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by striking out the word "chapter" and inserting in lieu thereof "title".

(g) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting before ", or any regulation issued pursuant thereto," the following: "or any of the provisions of the first section of the Act of September 28, 1962 (76 Stat. 688; 12 U.S.C. 92a)".

TECHNICAL AMENDMENTS

SEC. 425. (a) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended—

(1) by striking out "persons" in the first sentence and inserting in lieu thereof "person"; and

(2) by striking out "(3)" in the last sentence and inserting in lieu thereof "(2)".

(b) The first sentence of section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking out "25A" and inserting in lieu thereof "25(a)".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) is amended by adding at the end thereof the following:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this paragraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

(d) Section 205(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(2)) is amended by striking "25A" and inserting in lieu thereof "25(a)".

MANAGEMENT INTERLOCKS

SEC. 426. The Depository Institution Management Interlocks Act is amended by adding at the end thereof the following new section:

"SEC. 210. (a) For the purpose of the exercise by the Attorney General of his enforcement functions under section 207(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act.

"(b) All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 207(6) of the title in the same manner as if such possible violations were possible violations of the Clayton Act.".

REMOVAL AUTHORITY

SEC. 427. (a) Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (4) (C) through (E) as paragraphs (4) (D) through (F), respectively, and by inserting after paragraph (4)(B) the following new paragraph:

"(C) Whenever, in the opinion of the Board, any director or officer of an association has committed a violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.";

(2) by striking out "(A) or (B)" each place it appears in paragraphs (4)(D) and (4)(F), as redesignated, and inserting in lieu thereof "(A), (B), or (C)";

(3) by striking out "(E)" in the second sentence of paragraph (4)(D), as redesignated, and inserting in lieu thereof "(F)";

(4) by striking out "(C)" in paragraph (F), as redesignated, and inserting in lieu thereof "(D)";

(5) by striking out, in paragraph (5)(A), "or (C)" and inserting in lieu thereof "(C), or (D)"; and

(6) by striking out, in paragraph (12)(A), "(4)(C), (4)(D)" and inserting in lieu thereof "(4)(D), (4)(E)".

(b)(1) Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed a violation of the Depository Institution Management Interlocks Act, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) and (6), as redesignated, and inserting in lieu thereof ", (2) or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended by striking out "or (3)" in the fourth sentence and inserting in lieu thereof "(3) or (4)".

(3) Section 407(p)(1) of the National Housing Act (12 U.S.C. 1730(p)(1)) is amended by striking out "(g)(3), (g)(4)," and inserting in lieu thereof "(g)(4), (g)(5),".

(c)(1) Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the Board, any director, officer, or committee member of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act, the Board may serve upon such director, officer, or committee member a written notice of its intention to remove him from office.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) or (6), as redesignated, and inserting in lieu thereof ", (2), or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by striking out "(3), (g)(4)" and inserting in lieu thereof "(4), (g)(5)".

(d) (1) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of the Depository Institution Management Interlocks Act, the agency may serve upon such director or officer a written notice of its intention to remove him from office."; and

(B) by striking out "or (2)" each place it appears in paragraph (4), as redesignated, and inserting in lieu thereof ", (2), or (3)".

(2) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended by striking out "(e)(5) or (e)(7)" and "(e)(1), (e)(3), or (e)(7)" and inserting in lieu thereof "(e)(4)" and "(e)(1), (e)(2), or (e)(3)", respectively.

(3) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "or (3)" in the penultimate sentence and inserting in lieu thereof ", (3), or (4)".

(4) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(3), (e)(4)" and inserting in lieu thereof "(e)(4), (e)(5)".

CORRESPONDENT ACCOUNTS

SEC. 428. (a) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by inserting in subparagraph (a) after the phrase "such other bank" the phrase "or to any related interest of such person";

(2) by inserting in subparagraph (B) after the phrase "desiring to open the account" the phrase "or to any related interest of such person";

(3) by inserting in subparagraph (C) after the phrase "such other bank" the phrase "or to any related interest of such person"; and

(4) by inserting in subparagraph (D) after the phrase "another bank" the phrase "or to any related interest of such person".

(b) Section 106(b)(2)(G) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(G)) is amended—

(1) by striking out subparagraph (ii) and inserting in lieu thereof the following:

"(ii) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions or terms, to require the reporting and public disclosure of information by any bank or executive officer or principal shareholder thereof concerning any extension of credit by a correspondent bank to the reporting bank's executive officers or principal shareholders, or the related interests of such persons."; and

(2) by striking out subparagraph (iii).

(c) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end thereof the following:

"(H) For the purpose of this paragraph—

"(i) the term 'bank' includes a mutual savings bank;

"(ii) the term 'related interests of such persons' includes any company controlled by such executive officer, director, or person, or any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person; and

"(iii) the terms 'control of a company' and 'company' have the same meaning as under section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).".

DISCLOSURE OF MATERIAL FACTS

SEC. 429. Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) is amended to read as follows:

"(k) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank to any of its executive officers or principal shareholders, or the related interests of such persons.".

EFFECTIVE DATE OF REPORTING PROVISIONS

SEC. 430. The provision of law amended by section 428(b) and section 429 shall remain in effect until the regulations referred to in such amendments become effective.

TECHNICAL AMENDMENT

SEC. 431. Section 1006(b)(2) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(b)(2)) is amended by striking out "unaccepted" and inserting in lieu thereof "unacceptable".

RIGHT TO FINANCIAL PRIVACY ACT AMENDMENTS

SEC. 432. (a) Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding section 1101(6) or any other provision of this title, the exchange of financial records or other information with respect to a financial institution among and between the five member supervisory agencies of the Federal Financial Institutions Examination Council is permitted.".

(b) Section 1114(b)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(b)(2)) is amended by striking out "of" following the term "institution".

MISCELLANEOUS AMENDMENTS

SEC. 433. (a) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by placing a period after the phrase "six-month period" in the first sentence and striking the remainder of that sentence.

(b) Section 4(a)(2) of the Bank Holding Company act of 1956 (18 U.S.C. 1843(a)(2)) is amended by striking out "December 31, 1982" in the last paragraph and inserting in lieu thereof "December 31, 1984".

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

CUSTODIAL ACCOUNTS

SEC. 501. Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by inserting ", and such terms mean custodial accounts established for loans sold in whole or in part pursuant to section 107(13)" after "section 207 of this Act".

AUDIT OF NATIONAL CREDIT UNION ADMINISTRATION

SEC. 502. Section 102(f) of the Federal Credit Union Act (12 U.S.C. 1752a(f)) is amended by striking out "on a calendar year basis".

ORGANIZATIONAL PROCESS

SEC. 503. Section 103 of the Federal Credit Union Act (12 U.S.C. 1753) is amended by striking out "subscribe" and inserting in lieu thereof "each subscribe either individually or collectively".

PAR VALUE OF SHARES

SEC. 504. Section 103(4) of the Federal Credit Union Act (12 U.S.C. 1753(4)) is amended by inserting "initial" before "par value" and by striking out ", which shall be $5 each".

INVESTMENT OF FEES

SEC. 505. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended by adding at the end thereof the following new subsection:

"(e)(1) Upon request of the Board, the Secretary of the Treasury shall invest and reinvest such portions of the annual operating fees deposited under subsection (d) as the Board determines are not needed for current operations.

teen years unless such loan is insured or guaranteed as provided in subparagraph (iii);".

TERMS OF GUARANTEED LOANS

SEC. 511. Section 107(5)(A)(iii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(iii)) is amended to read as follows:

> *"(iii) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided;".*

LOANS TO DIRECTORS OR COMMITTEE MEMBERS

SEC. 512. Sections 107(5)(A) (iv) and (v) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A) (iv) and (v)) are amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

REAL ESTATE LENDING; PARTIAL PAYMENTS

SEC. 513. Section 107(5)(A)(viii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(viii)) is amended by inserting before the semicolon at the end thereof the following: ", except that on a first or second mortgage loan a Federal credit union may require that any partial prepayments (I) be made on the date monthly installments are due, and (II) be in the amount of that part of one or more monthly installments which would be applicable to principal".

INVESTMENT IN STATE AND LOCAL GOVERNMENT OBLIGATIONS

SEC. 514. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "(L) investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer); and".

USE OF SPACE AND FACILITIES

SEC. 515. Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by adding at the end thereof the following: "For the purpose of this section, the term 'services' includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of space or services, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.".

INVESTMENT IN SECONDARY MARKET INSTRUMENTS

SEC. 516. Section 107(7)(E) of the Federal Credit Union Act (12 U.S.C. 1757(7)(E)) is amended by inserting after the last semicolon the following: "or in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any other agency of the United States and a Federal credit union may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act;".

DEPOSITS IN OUT-OF-STATE INSURED STATE BANKS

SEC. 517. Section 107 (8) of the Federal Credit Union Act (12 U.S.C. 1757 (8)) is amended by inserting after "in which the Federal credit union does business," the following: "or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,".

MONEY TRANSFER SERVICES

SEC. 518. Section 107 (12) of the Federal Credit Union Act (12 U.S.C. 1757 (12)) is amended—

(1) by striking out "and money orders" and inserting in lieu thereof ", money orders, and other similar money transfer instruments"; and

(2) by striking out all after "for a fee" and inserting in lieu thereof a semicolon.

ANNUAL MEETINGS

SEC. 519. Section 110 of the Federal Credit Union Act (12 U.S.C. 1760) is amended to read as follows:

"MEMBERS' MEETINGS

"SEC. 110. The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.".

TECHNICAL WORDING CHANGES IN MANAGEMENT AUTHORITY

SEC. 520. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"MANAGEMENT

"SEC. 111. (a) The management of a Federal credit union shall be by a board of directors, a supervisory committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy

occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

"(b) the supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers, shall be filed with the Administration within ten days after their election or appointment.

"(c) No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.".

ELIMINATION OF SPECIFIC REFERENCE TO THE TITLES OF THE OFFICERS OF THE BOARD

SEC. 521. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761 (a)) is amended to read as follows:

"OFFICERS OF THE BOARD

"SEC. 112. At their first meeting after the annual meeting of the members, the directors shall elect from their number the board officers specified in the bylaws. Only one board officer may be compensated as an officer of the board and the bylaws shall specify such position as well as the specific duties of each of the board officers. The board shall elect from their number a financial officer who shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Board conditioned upon the faithful performance of the officer's trust.".

CLARIFICATION OF BOARD OF DIRECTOR'S DUTIES

SEC. 522. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended to read as follows:

"BOARD OF DIRECTORS; MEETINGS; POWERS AND DUTIES; EXECUTIVE COMMITTEE; MEMBERSHIP OFFICERS; MEMBERSHIP APPLICATIONS

"SEC. 113. The board of directors shall meet at least once a month and shall have the general directions and control of the affairs of the Federal credit union. Minutes of all meetins shall be kept. Among other things, the board of directors shall—

> *"(1) act upon applications for membership or appoint membership officers from among the members of the board of directors, other than the board member paid as an officer, the financial board officer, any assistant to the paid officer of the board or to the financial officer, or any loan officer;*
>
> *"(2) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with regulations of the Board, and authorize the payment of the premium or premiums therefor from the funds of the federal credit unions;*

"(3) fill vacancies on the board of directors until successors elected at the next annual meeting have qualified;

"(4) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

"(5) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

"(6) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

"(7) determine the maximum number of shares, share certificates, and share draft accounts, and the classes of shares, share certificates, and share draft accounts;

"(8) subject to any limitations of this subchapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned and provided in lines of credit;

"(9) authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid them during that dividend period;

"(10) if the bylaws so provide, appoint one or more loan officers and delegate to these officers the power to approve or disapprove loans, lines of credit, or advances from lines of credit;

"(11) establish the par value of the share;

"(12) subject to the limitations of this title and the bylaws of the credit union, provide for the hiring and compensation of officers and employees;

"(13) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(14) prescribe conditions and limitations for any committee which it appoints;

"(15) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meetings together with such other related information as it or the bylaws require;

"(16) provide for the furnishing of the written reasons for any denial of a membership application to the applicant upon the written request of the applicant;

"(17) in the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer;

"(18) declare the dividend rate to be paid on shares, share certificates, and share draft accounts pursuant to the terms and conditions of section 117;

"(19) establish and maintain a system of internal controls consistent with the regulations of the Board;

"(20) establish lending policies; and

"(21) do all other things that are necessary and proper to carry out all the purposes and powers of the Federal credit union, subject to regulations issued by the Board.".

OPTIONAL CREDIT COMMITTEE

SEC. 523. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

"CREDIT COMMITTEE

"SEC. 114. (a) If the bylaws provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which shall consist of an odd number of members of the credit union, but which shall not include more than one loan officer. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 107(5) of this Act, approval of an application shall be by majority of the committee who are present at the meeting at which it is considered provided that a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

"(b) If the bylaws provide for a credit committee, all applications not approved by the loan officer shall be reviewed by the credit committee, and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision provided a majority of the full committee is present. If there is no credit committee, a member shall have the right upon written request of review by the board of directors of a loan application which has been denied. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application has been approved by him in his capacity as a loan officer.".

REQUIREMENT THAT CREDIT UNION PAY ON ALL DOLLARS AFTER PURCHASE OF FULL SHARE

SEC. 524. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended to read as follows:

"DIVIDENDS

"SEC. 117. At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare, pursuant to such regulations as may be issued by the Board, a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares, share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds $5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.".

NONPARTICIPATION

SEC. 525. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended to read as follows:

"EXPULSION AND WITHDRAWAL

"SEC. 118. (a) Subject to subsection (b) of this section, a member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after opportunity has been given him to be heard.

"(b) The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt a policy with respect to expulsion from membership based on nonparticipation by a member in the affairs of the credit union. In establishing its policy, the board should consider a member's failure to vote in annual credit union elections or failure to purchase shares from, obtain a loan from, or lend to the Federal credit union. If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than 30 days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.

"(c) Withdrawal or expulsion of a member pursuant to either subsection (a) or (b) of this section shall not operate to relieve him from liability to the Federal credit union. The amount to be paid a withdrawing or expelled member by a Federal credit union shall be determined and paid in a manner specified in the bylaws.".

NATIONAL CREDIT UNION ADMINISTRATION BOARD'S REGULATORY AUTHORITY

SEC. 526. Section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)) is amended by adding at the end thereof the following: "Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this act.".

CHARTER CONVERSION

SEC. 527. Section 125(a)(1) of the Federal Credit Union Act (12 U.S.C. 1771(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in bold face type state that the issue will be decided by a majority of the members who vote.".

ELIMINATION OF DISCRIMINATORY INSURANCE PREMIUM ASSESSMENT FOR DEPOSITS OF STATE CHARTERED CREDIT UNIONS

SEC. 528. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

"(3) the term 'members accounts' when applied to the premium charge for insurance of accounts shall not include amounts received from other credit unions, the accounts of which are federally insured or insured or guaranteed by a fund established under State law or regulation for this purpose, in excess of the insured account limit set forth in section 207(c)(1);".

ELIMINATION OF PARTIAL INSURANCE PREMIUMS AND REBATES

SEC. 529. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended by striking out paragraphs (3) and (6) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

AUTHORIZATION FOR FUND TO BORROW FROM CLF

SEC. 530. Section 203 of the Federal Credit Union Act (12 U.S.C. 1783) is amended by adding at the end thereof the following:

"(f) In addition to the authority to borrow from the Secretary of the Treasury provided in subsection (d), if in the judgment of the Board, a loan to the fund is required at any time for carrying out the purposes of this title, the fund is authorized to borrow from the National Credit Union Administration Central Liquidity Facility.".

CENTRAL LIQUIDITY FACILITY LENDING AND INVESTMENT AUTHORITY

SEC. 531. Section 307(a) of the Federal Credit Union Act (12 U.S.C. 1795f(a)) is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(17) exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the purposes for which the Facility is incorporated; and

"(18) advance funds to the National Credit Union Share Insurance Fund under such terms and conditions as may be established by the Board.".

CENTRAL LIQUIDITY FACILITY AS AGENT OF FEDERAL RESERVE SYSTEM

SEC. 532. Title III of the Federal Credit Union Act (12 U.S.C. 1795 through 1795i) is amended by adding at the end thereof the following:

"AGENT OF THE FEDERAL RESERVE SYSTEM

"SEC. 311. The Facility is authorized to act upon the request of the Board of Governors of the Federal Reserve System as an agent of the Federal Reserve System in matters pertaining to credit unions under such terms and conditions as may be established by the Board of Governors of the Federal Reserve System.".

STUDY OF DIRECTORS' COMPENSATION

SEC. 533. The National Credit Union Administration Board shall conduct a study to determine the feasibility and desirability of permitting Federal credit unions to compensate members of their boards of directors. A report containing the results of such study shall be transmitted to the Congress not later than 6 months after the date of enactment of this Act.

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 601. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker except (A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extention of credit and, during the period beginning on the date of the enactment of this subparagraph and ending on December 31, 1982, such extension of credit is not more than $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (i) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank *holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (E) any insurance activity where the activity is limited soley to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less; or (G) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971: Provided, however, That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).".*

TITLE VII—MISCELLANEOUS

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 701. (a) Section 104 of the Truth in Lending Act (15 U.S.C. 1601) is amended by adding at the end thereof the following:

"(6) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.)."

(b) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

(c) The amendment made by subsection (a) and subsection (b) shall be effective both with respect to loans made prior to and after the date of enactment of this Act.

DEFINITION OF CREDITOR

Sec. 702. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows:

"(f) The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purpose of the requirements imposed under chapter 4 and sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(8), and 127(b)(10) of chapter 2 of this title, the term 'creditor' shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.".

(b) The amendment made by subsection (a) shall take effect on the effective date of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980.

INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

Sec. 703. (a) Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by inserting "industrial bank or similar financial institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank," before "or other banking institution".

(b) Section 3(l)(1) of such Act (12 U.S.C. 1813(l)(1)) is amended by inserting "thrift certificate, investment certificate, certificate of indebtedness, or other similar name," before "or a check or draft drawn against a deposit account".

(c) Section 5(a) of such Act (12 U.S.C. 1815(a)) is amended by adding at the end thereof the following: "Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State.".

(d) Section 109(b)(2) of title 11, United States Code, is amended by striking out "or" before "credit union", and by inserting ", or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978

SEC. 704. Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by inserting in the first sentence immediately after the words "on the date of enactment of this Act" the following: "or on the date of the establishment of a branch in a State an application for which was filed on or before July 26, 1978".

SECURITIES ACTIVITIES UNDER THE INTERNATIONAL BANKING ACT OF 1978

SEC. 705. (a) The last sentence of section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking out all after "company, and" and inserting in lieu thereof the following: "the term 'domestically-controlled affiliate covered in 1978' shall mean an affiliate organized under the laws of the United States or any State thereof if (i) no foreign bank or group of foreign banks acting in concert owns or controls, directly or indirectly, 45 per centum or more of its voting shares, and (ii) no more than 20 per centum of the number of directors as established from time to time to constitute the whole board of directors and 20 per centum of the executive officers of such affiliate are persons affiliated with any such foreign bank. For the purpose of the preceding sentence, the term 'persons affiliated with any such foreign bank' shall mean (A) any person who is or was an employee, officer, agent, or director of such foreign bank or who otherwise has or had such a relationship with such foreign bank that would lead such person to represent the interests of such foreign bank, and (B) in the case of any director of such domestically controlled affiliate covered in 1978, any person in favor of whose election as a director votes were cast by less than two-thirds of all shares voting in connection with such election other than shares owned or controlled, directly or indirectly, by any such foreign bank.".

(b) The second sentence of section 8(c) of such Act is amended to read as follows: "Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which since July 26, 1978, has engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, notwithstanding that such affiliate acquired after July 26, 1978, an interest in, or any or all of the assets of, a going concern, or commences to engage in any new activity or activities.".

NOW ACCOUNTS FOR PUBLIC FUNDS

SEC. 706. (a) Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, *Guam, any territory or possession of the United States, or any political subdivision thereof".*

(b) Section 205(f)(2) of the Federal Credit Union Act (12 U.S.C. 1785(f)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 707. (a) Section 303(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by inserting after the first sentence the following: "The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe."; and

(2) by striking out "common" in the last sentence thereof.

(b) Section 304(e) of such Act is amended by striking out the fourth sentence.

RESERVE REQUIREMENT PHASE-IN

SEC. 708. Section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. 461(b)(8)(D)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

"(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required."

(2) in clause (ii) by striking the words "on or".

BANK SERVICE CORPORATIONS

SEC. 709. The Bank Service Corporation Act (12 U.S.C. 1861 et seq.) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SECTION 1. (a) This Act may be cited as the 'Bank Service Corporation Act'.

"(b) For the purpose of this Act—

"(1) the term 'appropriate Federal banking agency' shall have the meaning provided in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));

"(2) the term 'bank service corporation' means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more insured banks;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'depository institution' means an insured bank, or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board;

"(5) the term 'insured bank' shall have the meaning provided in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

"(6) the term 'invest' includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

"(7) the term 'principal investor' means the insured bank that has the largest dollar amount invested in the capital stock of a bank service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation shall, prior to commencing operations, select one of the insured banks as its principal investor and shall notify the bank's appropriate Federal banking agency of that chocie within 5 business days of its selection.

"AMOUNT OF INVESTMENT IN BANK SERVICE CORPORATION

"SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. No insured bank shall invest more than 5 per centum of its total assets in bank service corporations.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

"SEC. 3. Without regard to the provisions of sections 4 and 5 of this Act, an insured bank may invest in a bank service corporation that performs, and a bank service corporation may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR OTHER PERSONS

"SEC. 4. (a) A bank service corporation may provide to any person any service authorized by this section, except that a bank service corporation shall not take deposits.

"(b) Except with the prior approval of the Board under section 5(b) of this Act in accordance with subsection (f) of this section—

"(1) a bank service corporation shall not perform the services authorized by this section in any State other than that State in which its shareholders are located; and

"(2) all insured bank shareholders of a bank service corporation shall be located in the same State.

"(c) A bank service corporation in which a State bank is a shareholder shall perform only those services that such State bank shareholder is authorized to perform under the law of the State in which such State bank operates and shall perform such services only at locations in the State in which such State bank shareholder could be authorized to perform such services.

"(d) A bank service corporation in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under this Act and shall perform such services only at locations in the State at which such national bank shareholder could be authorized to perform such services.

"(e) A bank service corporation that has both national bank and State bank shareholders shall perform only those services that may lawfully be performed by both its national bank shareholder or shareholders under this Act and its State bank shareholder or shareholders under the law of the State in which such State bank or banks operate and shall perform such services only at locations in the State at which both its State bank and national bank shareholders could be authorized to perform such services.

"(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and State branching law regulating the geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that the Board has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act.

"PRIOR APPROVAL FOR INVESTMENTS IN BANK SERVICE CORPORATIONS

"SEC. 5. (a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsection (c), (d), or (e) of section 4 of this Act without the prior approval of the bank's appropriate Federal banking agency.

"(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 4(f) of this Act and no bank service corporation shall perform any activity under section 4(f) of this Act without the prior approval of the Board.

"(c) In determining whether to approve or deny any application for prior approval under this section, the Board or the appropriate Federal banking agency, as the case may be, is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proposed investment under this Act, and possible adverse effects such as undue concen-

tration of resources, unfair or decreased competition, conflicts of interest or unsafe or unsound banking practices.

"(d) In the event the Board or the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within 90 days of the submission of a complete application to the agency, the application shall be deemed approved.

"SERVICES TO NONSTOCKHOLDERS

"SEC. 6. No bank service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service corporation, except that—

"(1) it shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

"(2) a bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

"REGULATION AND EXAMINATION OF BANK SERVICE CORPORATIONS

"SEC. 7. (a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency of the principal shareholder of such a bank service corporation may authorize any other Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

"(b) A bank service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.) as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation.

"(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of the service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 710. (a) Section 604 of the Neighborhood Reinvestment Corporation Act (Public Law 95-557) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller."; and

(2) by inserting in section 604(g), as redesignated, after "members" a comma and the words "or their representatives as provided in subsection (f),".

(b) Section 606(c)(3) of such Act is amended by inserting "funds," after "provide".

MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING

SEC. 711. The building at 20th and Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Federal Reserve Board Main Building) shall hereafter be known and designated as the "Marriner S. Eccles Federal Reserve Board Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Marriner S. Eccles Federal Reserve Board Building".

INSURANCE STUDY

SEC. 712. (a) The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board shall each conduct a study of—

(1) the current system of deposit insurance and its impact on the structure and operations of depository institutions;

(2) the feasibility of providing depositors the option to purchase additional deposit insurance covering deposits in excess of the general limit provided by law and the capabilities of the private insurance system, either directly or through reinsurance, to provide risk coverage in excess of the general statutory limit;

(3) the feasibility of basing deposit insurance premiums on the risk posed by either the insured institution or the category or size of the depository institution rather than the present flat rate system;

(4) the impact of expanding coverage of insured deposits upon the operations of the insurance funds, including the possibility of increased or undue risk to the funds;

(5) the feasibility of revising the deposit insurance system to provide even greater protection for smaller depositors while fostering a greater degree of discipline with respect to large depositors;

(6) the adequacy of existing public disclosure regarding the condition and business practices of insured depository institutions, and providing an assessment of changes which may be needed to assure adequate public disclosure;

(7) the feasibility of consolidating the three separate insurance funds; and

(8) other related issues.

(b) A report containing the results of each of the studies carried out under subsection (a) shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

SHORT TITLE

SEC. 801. This title may be cited as the "Alternative Mortgage Transaction Parity Act of 1982".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impared the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this title to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "alternative mortgage transaction" means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974)—

(A) in which the interest rate finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term "housing creditor" means—

(A) a depository institution, as defined in section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

(C) any person who regularly takes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a "housing creditor" with respect to a specific alternative mortgage transaction if, except for this title, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law, and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

ALTERNATIVE MORTGAGE AUTHORITY

SEC. 804. (a) In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rulemaking authority granted to the Comptroller of the Curren-

cy with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rulemaking authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section; and

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Home Loan Bank Board for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Home Loan Bank Board with regard to federally chartered savings and loan associations under laws other than this section.

(b) For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

(1) the transaction is in substantial compliance with the regulation; and

(2) within sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if any, to the account.

(c) An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation.

APPLICABILITY

SEC. 805. (a) The provisions of section 804 shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after the effective date of this title and prior to a date three years after the effective date of this title) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the preemption provided in section 804 to apply with respect to alternative mortgage transactions subject to the laws of such State, except that section 804 shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction which was entered into on or after the effective date of this title and prior to such later date (the "preemption period"); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modification is made during such period with the written consent of any person obligated to repay such credit.

RELATION TO OTHER LAW

SEC. 806. Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this title.

EFFECTIVE DATE

SEC. 807. (a) This title shall be effective upon enactment.

(b) Within sixty days of the enactment of this title, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.

And the Senate agree to the same.

FERNAND J. ST GERMAIN,
HENRY S. REUSS,
FRANK ANNUNZIO,
J. W. STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

JAKE GARN,
JOHN TOWER,
DICK LUGAR,
DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPOSIT INSURANCE FLEXIBILITY

The Senate amendments and the bill, H.R. 4603, which passed the House on october 18, 1981, had substantially similar provisions granting the Federal depository institutions insurance agencies with increased flexibility in order to effectively assist troubled and financially distressed institutions.

Both the Senate amendment and the House bill enhanced the ability of the FDIC and FSLIC to aid institutions in need of assistance by expanding the forms of financial assistance that could be provided by the agencies and broadening the circumstances under which such assistance could be granted. They also provided specific procedures for the agencies, including the NCUA, to follow in order to facilitate the acquisition or merger of failed and failing institutions. Broadened conservatorship powers with respect to certain of the insuring agencies was granted under both the Senate and House provisions. Finally, the Senate and the House both provided a sunset for the emergency authorities of the regulatory agencies.

Since the House and Senate versions of Title I of H.R. 6267 were very similar, the House receded to the Senate with four changes. The following paragraphs summarize the revisions made to the Senate amendment.

In using their extraordinary acquisition authority, the FDIC and FSLIC are required to consult the state supervisor of the state in which the institution being acquired is located. The state supervisor must be given at least 48 hours to object to the use of the extraordinary authority, which objection can be overridden only by a unanimous vote of the appropriate insuring agency. In the case of an institution in receivership, the notice can be provided in anticipation of the impending appointment.

The FDIC and FSLIC are required to consider the following priorities when authorizing extraordinary acquisitions:

First, between institutions of the same type within the same State;

Second, between institutions of the same type in different States;

Third, between institutions of different types in the same State; and

Fourth, between institutions of different types in different States.

Both the FSLIC and NCUA are given emergency conservatorship authority over state chartered institutions. While such authority cannot be exercised without the written approval of the state supervisor of any such state institution, if such approval is not received by the insuring agency within 90 days of the state's receipt of the notice, such authority can be exercised upon the unanimous vote of the insuring agency.

If the FDIC is providing financial assistance to an insured bank under its general 13(c) authority, any institution receiving such assistance will be able to defer state taxes that are based upon deposits held or interest paid by such institutions. This authority is subject to the three year sunset provision.

TITLE II—NET WORTH CERTIFICATES

In order to provide capital assistance to depository institutions which have suffered earnings and capital losses primarily as a result of their mortgage lending activities, the conferees agreed to a program of assistance representing a compromise between the House and Senate approaches.

Title II will be known as the "Net Worth Certificate Act".

The Senate concept establishing an income capital assistance program was adopted rather than the guarantee concept in the House bill. Thus, the assisted institutions will issue capital instruments, called "net worth certificates," which are to be purchased by the insuring agencies with promissory notes.

The program is designed to assist a broad range of insured institutions having net worth equal to or less than 3 percent of assets. In order to qualify for such assistance, institutions must have a net worth equal to or greater than ½ percent of their assets after the issuance of net worth certificates. The agencies may consider the special circumstances of minority thrift associations when considering the ½ percent requrement. In addition, the conferees wish to point out that an institution that receives assistance under the provisions of title I is not, for that reason, precluded from receiving assistance under this Title.

Institutions covered by this Title must comply with all the terms and conditions established by the appropriate federal insuring agency. While the agencies are given the discretion to take into account the particular circumstances and condtions of each institution, the federal insurance agencies shall not arbitrarily or capriciously establish significantly different terms and conditions for insured institutions which are similarly situated.

With regard to merger resolutions, the Senate receded to the House amendment that a federal insurance agency shall not require the execution of a merger resolution from an institution which is projected to have a positive net worth for at least 6 months after receiving capital assistance. Nor can a management change be required from an institution which is projected to have a positive net worth for at least 9 months after receiving capital assistance. With reference to both merger resolutions and management change requirements, institutions would be permitted to submit their own business or operating plan to the appropriate agency in support of their case to counter the agency determination. If that plan is rejected by the designated agency official, an appeal to the full Federal Home Loan Bank Board or the Board of Directors of the Federal Deposit Insurance Corporation shall be permitted. Additionally, the Senate receded to the House that an institution would have to have a mortgage portfolio equal to 20 percent of its outstanding loans.

The partial formula for providing assistance would be as follows:

Net worth	*Level of assistance*
3 percent or less	50 percent of period loss.
2 percent or less	60 percent of period loss.
1 percent or less	70 percent of period loss.

In determining the amount of period losses, it is the intention of the conferees that such losses be limited to operating losses as determined by the appropriate federal insurance agency and shall not include extraordinary items for the period. Additionally, the agencies would be provided with the discretion to change the formula for providing assistance but the conferees believe that such discretion should only be exercised in limited and unusual circumstances.

As long as a stock institution has net worth certificates outstanding, the payment of dividends on its common stock is prohibited. In the event of liquidation, the net worth certificates would be treated like preferred stock with a higher priority than common stock but following other creditors.

State-insured institutions are eligible for assistance provided the state fund which insures or guarantees the deposits of such institutions agrees to indemnify the appropriate federal insurance agency for any losses incurred by that agency as a result of providing assistance to such state-insured institutions. During any period that there are outstanding net worth certificates from a state-insured institution to a federal insurance agency, the state fund insuring such institution's deposits is required to maintain a level of assessment on the institutions insured by such agency at least equal to the premiums paid by federally-insured institutions to the appropriate federal insurance agency.

Each insuring agency and the General Accounting Office will be required to report annually to Congress on the operation of the new worth certificate program.

TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

The Senate amendment provides increased investment powers for federal thrift institutions—savings and loans and savings banks. This flexibility is provided to improve the range of services which thrift institutions may provide to their customers and to improve their ability to generate earnings to sustain the growth capital needed for future operations. The provisions provide federal thrift institutions with more liberal chartering options; the ability to offer stock; the authority to accept demand deposits from commercial, corporate and agricultural customers who have established a loan relationship with the thrift; expanded real estate investment authority; and the ability to invest in a broad range of government securities. Thrifts are also provided authority to invest in commercial, corporate and agricultural loans up to a specified percentage of their assets.

The House receded to the Senate provisions with amendments. One amendment made clear that the liberalized provisions in the bill are intended to strengthen the thrift industry so that it may maintain its place as the nations's primary home lender.

Other House amendments make the following changes in the Senate amendment: the authority for federal thrifts to invest in government securities is limited to 10 percent of a thrift's capital accounts in the obligations of one governmental unit, thus making this investment authority comparable to the National Bank Act limitation on investment securities. In addition, federal thrifts are provided commercial, agricultural and corporate lending authority up to 5 percent of assets beginning on the date of enactment of the bill (7½ percent for federal savings banks) and 10 percent after January 1, 1984. This commercial lending authority may be in the form of either direct loans or participations.

The managers want to stress that by specifically approving certain expanded powers and activities for thrift institutions and by not authorizing the Federal Home Loan Bank Board to permit service corporations to engage in any new activities not previously authorized, the managers intend that henceforth the FHLBB should not approve, in the absence of clear and specific Congressional authorization, any new regulation expanding activities of service corporations other than to permit service corporations to engage in activities permitted for federal thrift institutions. The conferees are aware that the Bank Board presently is considering proposed regulations that would expand significantly the permitted range of activities for service corporations. In light of specific additional powers authorized for savings and loan institutions in this bill, the conferees intend that the Board shall withdraw and take no further action on the proposed regulations. Of course, the House and Senate conferees reserve the right of their respective banking committees to review activities previously authorized by the Bank Board.

The bill also provides a directive to the Depository Institutions Deregulation Committee to establish within sixty days of enactment of the bill an account which is "directly equivalent to and competitive with money market mutual funds". The House receded to the Senate provision with an amendment modifying the description of the account. The amendment will allow such accounts to have up to 3 preauthorized or automatic transfers and three third party transfers per month, and such account will be subject to the reserve level for nonpersonal time deposits. In the opinion of the Conferees, the minimum balance for such account shall not be more than $5,000.

In addition to directing the DIDC to create a new deposit instrument the legislation will shorten the time period for the phase-out of the differential to ensure that all differentials will be eliminated on or before January 1, 1984. However, the Conferees stress that none of the provisions of the bill should be interpreted to limit in any way the Depository Institutions Deregulation Committee's authority to eliminate a ceiling on any account.

The Senate bill provides a federal preemption of state laws and judicial decisions which restrict the enforcement of due-on-sale clauses in real property loans, except for loans originated or assumed during a "window period" as specified in the legislation. The House accepted the Senate provision with two amendments. First, the Federal Home Loan Bank Board is required to consult with the National Credit Union Administration as well as the Comptroller of the Currency, in drafting regulations for the provision. Second, the effective date for Federal Home Loan Mortgage Corporation changes in its due-on-sale provision is extended until July 1, 1983.

Finally, with respect to issuance of regulations pursuant to Section 341(c)(2), the conferees state that nothing in this section shall be construed as affecting, in any way, the authority of the Comptroller of the Currency.

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

The Senate amendment includes a number of significant provisions which revise or repeal provisions of the banking laws covering national and member banks that are obsolete and unjustifiably restrictive. Changes were made to the Senate amendment with regard to lending limits, the banking affiliate provisions, the exemption from reserve requirements and the provisions governing loans to executive officers, directors and 10 percent shareholders. Otherwise the House receded to the Senate.

LENDING LIMITS

The Senate amendment increases the lending limits by a national bank to an individual borrower for unsecured loans from 10 percent to 15 percent of a bank's unimpaired capital and surplus, and an additional 10 percent for loans fully secured by readily marketable collateral. The House receded with an amendment which clarifies the existing application of Section 84 lending limitations to loans by national banks for foreign governments.

BANKING AFFILIATES

The Senate amendment completely revises Section 23A of the Federal Reserve Act in order to close several unintended loopholes, liberalize certain unduly restrictive provisions and simplify it in order to enhance compliance and enforcement. The House receded with an amendment to exempt from the 23A restrictions the nonrecourse purchase of loans at fair market value from affiliated banks.

EXEMPTION FROM RESERVE REQUIREMENTS

The House in August 1982 passed H.R. 6222. This bill is comparable to Section 412 of the Senate amendment. The House bill provides that the reservable liabilities, including deposits, up to $2 million held by any depository institution are not subject to reserve requirements. The Senate amendment provides that depository institutions holding less than $5 million in total deposits are not subject to reserve requirements. The Senate receded.

LOANS TO INSIDERS

The Senate amendment eliminates the statutory limitations on mortgage and educational loans to executive officers of member banks and replaces the $10,000 "other loan" limit with a grant of authority to the bank supervisory agencies to set appropriate limits. The Senate amendment also eliminated the quarterly reporting of such transactions. The House receded to the Senate on the statutory limits while the Senate receded to the House on the reporting requirements.

The Senate amendment removes the $25,000 threshold figure above which loans to officers, directors and 10% shareholders must be approved by the board of directors and authorizes the bank supervisory agencies to establish the threshold. The House receded to the Senate on this provision. While the Senate amendment would also have allowed a committee of the Board to make the approvals, the Senate receded to the House on that provision. The Senate also receded to the House on a provision in the Senate amendment that would have eliminated officers of subsidiaries of a bank holding company from the coverage of these requirements.

The Senate amendment eliminates reporting and public disclosure requirements relative to bank's loans to their officers, directors and 10 percent shareholders ("insiders") and insider loans by banks with whom the insider's bank has a correspondent relationship. The Senate receded to the House with an amendment that requires the bank supervisory agencies to develop alternative reporting and disclosure requirements. When the new reporting requirements become effective, the existing reporting requirements shall be repealed.

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

The Senate amendment makes numerous changes in the Federal Credit Union Act to facilitate the establishment, management, and provide greater operating flexibility for federal credit unions. The amendment also provides greater operating flexibility for the National Credit Union Administration in the management of its budget, the NCU Share Insurance Fund, and the Central Liquidity Facility.

The Senate amendment reorganizes the listing of the duties of the board of directors and adds to the enumerated board duties authority relating to having an optional credit committee, establishing par value of shares, declaring dividend rates, and establishing lending policies. The House recedes with an amendment requiring the NCUA to conduct a study of the adverse and beneficial effects of board member compensation.

The Senate amendment allows approval for conversion from federal to state charter based on the affirmative vote of the majority of those members voting. The House recedes. The conferees stress their expectation that the notice to members will clearly, accurately, and prominently explain the intended charter change and its effect on the credit union and its members.

TITLE VI—INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

The Senate amendment generally prohibits bank holding companies and their subsidiaries from providing insurance, including property and casualty insurance products, as a principal, agent, or broker, with six specific exceptions enumerated in the Title. Thus, the amendment establishes that the sale of insurance does not, except for activities subject to the exceptions, meet the "closely related" test of section 4(c)(8) of the Bank Holding Company Act.

The House receded with an amendment to grandfather the insurance activities of a bank holding company registered with the Federal Reserve Board which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

The conferees stress that nothing in this Title is intended to prevent the transferring of grandfathered insurance activities of a bank holding company to the parent company or any of its subsidiaries if the transferral is brought about for management or efficiency purposes. Such a reorganization shall have no effect on the application of the restrictions or exemptions contained in this Title.

TITLE VII—MISCELLANEOUS

TRUTH IN LENDING STUDENT LOANS

The Senate amendment exempts from the Truth in Lending Act and from disclosure requirements of any state law loans that are made, insured or guaranteed under any program authorized by title IV of the Higher Education Act of 1965. The House recedes to the Senate.

DEFINITION OF CREDITOR

The Senate amendment amends the definition of "creditor", so that in other than open end credit transactions, the Act will not apply to any arrangers of credit, but it will only apply to professional extenders of consumer credit, namely, those who regularly extend consumer credit. The House recedes.

INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

The Senate amendment permits industrial banks and like-type institutions to be eligible for FDIC insurance. The House recedes.

AMENDMENT TO BHC ACT OF 1956

The Senate amendment authorizes a one-bank holding company covered by the 1970 BHC Act Amendments, which was required to divest its banking or impermissible non-banking activities as a result of that Act, but has not yet filed an irrevocable commitment to divest, to divest no later than December 31, 1983. The Senate recedes from its amendment leaving the existing requirement intact.

APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978 TO SECURITIES ACTIVITIES

The Senate amendment provides grandfather rights for the non-banking activities of foreign banks which had applied for but had not yet received approval to operate a U.S. branch on September 17, 1978. The House recedes.

FOREIGN OWNERSHIP CONTENT OF DOMESTIC CORPORATIONS

The Senate amendment permits a U.S. non-bank affiliate to be a domestically controlled affiliate if a foreign bank or group of banks owns up to 45 percent of the affiliate. The House recedes.

NOW ACCOUNTS FOR PUBLIC FUNDS

The Senate amendment clarifies Congressional intent in passing P.L. 96-221. It permits financial institutions to offer NOW accounts and share draft accounts to state and local governments. The House recedes.

FNMA

The Senate amendment authorizes FNMA to issue perferred stock and makes such stock freely transferable. It also repeals the provisions that restricts the amount of subordinated obligatons of FNMA that may be outstanding at any time. However, all new issues of preferred stock and subordinated obligations still must be approved by the Secretary of Housing and Urban Development. The House recedes.

BANK SERVICE CORPORATIONS

The Senate amendment allows one or more banks to form a bank service corporation in which they can invest up to 10% of their unimpaired capital and surplus. No bank may invest more than 5% of their assets in bank service corporations. A service corporation can engage in the same activities as its parent banks and is authorized to perform any activity permissible under the Federal Reserve Board's Regulation Y (permissible non-banking activities).

The proposed amendments to the Bank Service Corporation Act contained in section 713 do not authorize a bank service corporation to perform any activity that is not authorized for any bank that is a shareholder of the bank service corporation or that is not authorized for bank holding companies under the Bank Holding Company Act and the Federal Reserve Board's Regulation Y.

The amendments do not authorize any securities activity that is prohibited to banks or bank holding companies under the Glass Steagall Act or any other federal or state statutes relating to the securities activities of such institutions.

RESERVE REQUIREMENT PHASE-IN

The bill grants a phase-in of reserve requirements to banks that withdrew from the Federal Reserve System between July 1, 1979 and March 31, 1980. A bank will be regarded as having withdrawn from membership in the Federal Reserve System during such period if its Federal Reserve stock had been redeemed by March 31, 1980. The period for the phase-in of reserve requirements begins on the date of enactment of this legislation and continues for a six year period from the effective date of the reserve requirement phase-in provisions for nonmember banks (sec. 103(b)(8)(A)) of the Monetary Control Act of 1980 (P.L. 96-221). The phase-in should be administered in the same manner as the phase-in for other nonmember banks. This provision does not authorize the Federal Reserve to reimburse former member banks covered by this provision for reserves that have been maintained up until this time.

USURY LIMITS

The Senate amendment extended the business and agricultural loan usury preemption one year, until April 1, 1984. The Senate recedes.

NEIGHBORHOOD REINVESTMENT CORPORATION

The Senate amendment allows Directors to designate another Presidential appointee as his representative for meetings of the Corporation. The House recedes.

STUDY OF OPTIONAL INSURANCE OF LARGE DEPOSITS

The Senate amendment directs the FDIC, the FSLIC, and the NCUA to conduct a study of the feasibility of providing excess deposit insurance coverage and to include within that study the possibility of allowing private insurance or reinsurance for such coverage. The studies shall be transmitted to Congress not later than six months after the date of enactment of the Act.

The House recedes to the Senate with an amendment. The amendment gives each agency six months to complete its study and expands the scope of the study to also include (i) examining the current system of deposit insurance and its impact on the structure and operations of depository institutions; (ii) basing deposit insurance premiums on the risk posed by either the insured institution or the category or size of depository institution rather than the present flat rate system; (iii) assessing the impact of expanded coverage of insured deposits upon the operations of the insurance funds; (iv) revising the deposit insurance system to provide even greater protection for smaller depositors while fostering a greater degree of discipline with respect to large depositors; (v) examining the adequacy of disclosures of business practices and providing more public disclosure regarding the condition and business practices of insured depository institutions; (vi) feasibility of consolidating the three separate insurance funds; and (vii) determining such other related issues as the agencies may deem appropriate to study.

MARRINER S. ECCLES FEDERAL RESERVE BUILDING

The Senate amendment would have the main Federal Reserve Building be known and designated as the "Marriner S. Eccles Federal Reserve Building." The House recedes.

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

The Senate amendment authorizes non-federally chartered housing creditors to offer alternative mortgages in accordance with the Federal regulations issued by the appropriate Federal regulatory agencies. Thus, those creditors will have parity with federally chartered institutions. States have three years within which to reject the authority granted by this provision. The House receded.

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JOHN TOWER,
DICK LUGAR,
DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

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